



## Legislation Text

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**File #:** 1518-2015, **Version:** 2

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### **Council Variance Application: CV14-053**

**APPLICANT:** Burwell Investments LLC; c/o Jackson B. Reynolds, III, Atty.; Smith & Hale LLC; 37 West Broad Street, Suite 460; Columbus, OH 43215.

**PROPOSED USE:** Mixed-use development.

**ITALIAN VILLAGE COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is comprised of five parcels which are within the Urban Commercial Overlay (UCO). The two western parcels are undeveloped and are zoned R-4 Residential, and C-4, Commercial Districts. The three eastern parcels were previously used as a taxi parking/maintenance facility zoned in the C-4, Commercial District. The requested Council variance will allow the development of a six-story **maximum height** mixed-use building with **up to** 62 residential units, a three-story mixed-use building with four residential units, and a three-story eight-unit apartment building, for a total of 12,000± square feet of commercial space and **up to** 74 apartment units. Requested variances include commercial use in R-4 district, ground-floor residential use in the C-4 district, with increased height, reduced driveway width, a reduction of 48 required parking spaces, no loading space, and reduced yard and area standards for the R-4 parcel. The request is consistent with recent infill development proposals in historic urban neighborhoods and has been recommended for approval by the Italian Village Commission.

To grant a Variance from the provisions of Sections 3332.039, R-4, Residential district; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.13(B), Driveway; 3312.49(C), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3332.18(D), Basis of computing area; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.29, Height district; and 3372.604(A), Setback requirements, of the Columbus City codes; for the property located at **97 EAST FIFTH AVENUE (43201)**, to permit a mixed-use development with reduced development standards in the R-4, Residential and C-4, Commercial Districts (Council Variance # CV14-053).

**WHEREAS**, by application No. CV14-053, the owner of property at **97 EAST FIFTH AVENUE (43201)**, is requesting a Council variance to allow a mixed-use development with reduced development standards including commercial uses in the R-4, Residential District, and ground-floor residential uses in the C-4, Commercial District; and

**WHEREAS**, Section 3333.039, R-4, Residential District, prohibits commercial uses, while the applicant proposes a portion of a mixed use building containing commercial uses and parking on the part of the site that is zoned in the R-4 district; and

**WHEREAS**, Sections 3356.03, C-4 permitted uses, permits dwelling units only above certain commercial uses, while the applicant proposes ground floor residential uses as part of a mixed-use development with 12,000± square feet of commercial space and **up to** 74 apartment units; and

**WHEREAS**, Sections 3309.14, Height districts, requires a maximum building height of thirty-five (35) feet at the

setback for this property, while the applicant proposes a multi-story building not to exceed a height of seventy-five (75) feet; and

**WHEREAS**, Section 3312.13(B), Driveway, requires a minimum width of twenty (20) feet for driveways serving commercial parking lots, while the applicant proposes a driveway width of twelve (12) feet for the access point to Greenwood Avenue; and

**WHEREAS**, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1 parking space per 75 square feet of eating and drinking establishment area, 1 parking space per 150 square feet of accessory seating area, 1 parking space per 250 square feet of retail area, and 1.5 parking spaces per dwelling unit, and utilizing the UCO-permitted parking reductions for a mixed-use development containing 5,375 square feet of eating and drinking establishment space, 450 square feet of accessory seating space, 6,500 square feet of retail space, and seventy-four (74) apartment units, is a total requirement of one-hundred eighty two (182) required spaces, while the applicant proposes one-hundred thirty-four (134) parking spaces, **or a proportional amount of parking spaces which equals or exceeds seventy-four (74) percent of the required number of spaces for the proposed mix of uses contained within the development**; and

**WHEREAS**, Section 3312.53, Minimum number of loading spaces required, requires one (1) loading space to be provided, while the applicant proposes zero (0) loading spaces; and

**WHEREAS**, Section 3332.18(D), Basis of computing area, prohibits buildings from occupying more than fifty (50) percent of the lot area, while the applicant proposes a lot coverage of one-hundred (100) percent on the R-4 portion of the site; and

**WHEREAS**, Section 3332.25, Maximum side yards required, requires the sum of the widths of the side yards to be a minimum of 6.5 feet, while the applicant proposes no side yards feet on the R-4 portion of the site; and

**WHEREAS**, Section 3332.26, Minimum side yard permitted, requires side yards of no less than five (5) feet, while the applicant proposes no side yards on the R-4 portion of the site; and

**WHEREAS**, Section 3332.27, Rear yard, requires a rear yard totaling no less than twenty-five (25) percent of the total lot area, while the applicant proposes no rear yard on the R-4 portion of the site; and

**WHEREAS**, Section 3332.29, Height district, requires that no building or structure shall exceed a height of thirty-five (35) feet, while the applicant proposes a multi-story building not to exceed a height of seventy-five (75) feet on the R-4 portion of the site; and

**WHEREAS**, Section 3372.604(A), Setback requirements, requires a maximum building setback of no greater than ten (10) feet, while the applicant proposes a setback of twenty-six (26) feet along Summit Street as shown on the site plan; and

**WHEREAS**, the Italian Village Commission recommends approval; and

**WHEREAS**, the City Departments recommend approval of the requested variances because the proposal is consistent with recent infill development proposals in historic urban neighborhoods; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and 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 owners of the property located at **97 EAST FIFTH AVENUE (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 3332.039, R-4, Residential district; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.13(B), Driveway; 3312.49(C), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3332.18(D), Basis of computing area; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.29, Height district; and 3372.604(A), Setback requirements, of the Columbus City codes, is hereby granted for the property located at **97 EAST FIFTH AVENUE (43201)**, in so far as said sections prohibit a mixed-use building with commercial uses in the R-4, Residential District and ground-floor residential uses in the C-4 Commercial District, with an increased building height from thirty-five (35) feet to **up to seventy-five (75) feet**; a reduced driveway width from twenty (20) feet to twelve (12) feet; a parking space reduction from one-hundred eighty two (182) required spaces to one-hundred thirty-four (134) spaces, **or a proportional amount of parking spaces which equals or exceeds seventy-four (74) percent of the required number of spaces for the proposed mix of uses contained within the development**; no loading space; an increased maximum lot coverage from fifty (50) percent to one-hundred (100) percent; a reduced maximum side yard from 6.5 feet to zero (0) feet; a reduced minimum side yard from five (5) feet to zero (0) feet; a reduced rear yard from twenty-five (25) percent to zero (0) percent; and an increased building setback from ten (10) feet to nineteen (19) feet along Summit Street; said property being more particularly described as follows:

**97 EAST FIFTH AVENUE (43201)**, being 0.9± acres located at the southwest corner of East Fifth Avenue and Summit Street, and being more particularly described as follows:

**Tract 1**

Being located in the State of Ohio, County of Franklin, and City of Columbus:  
Being Lot number Four (4) in S.C. Dumm's Subdivision of Lot Number's Six (6), Seven (7) and Eight (8) of M.M. Green's Subdivision of Lots Numbers Thirty-Seven (37), Thirty-Eight (38) and Thirty-Nine (39) of W.G. Deshler's Addition to Phelan's Mt. Pleasant Addition to the City of Columbus, Ohio as per plat of said Addition in Plat Book 4, page 90, Recorder's Office, Franklin County, Ohio.

Parcel Number: 010-004662

**Tract 2**

Being located in the State of Ohio, County of Franklin, and City of Columbus:  
Being Lot Five (5) of Milbury M. Green's Subdivision of Lots Number Thirty-Seven, Thirty-Eight and Thirty-Nine (37, 38, and 39) of William G. Deshler's Amended Addition to William Phelan's Mt. Pleasant Addition to said City, as the is numbered and delineated upon the recorded plat thereof, of record in Plat Book 2, page 177, Recorder's Office, Recorder's Office, Ohio.

Parcel Number: 010-028166

**Tract 3**

Being located in the State of Ohio, County of Franklin, and City of Columbus:  
Being part of Lot No. 1 of Wilbury M. Green's Subdivision of Lots Nos 37, 38 and 39 of Wm. G. Deshler's Addition to Phelan's Mt. Pleasant Addition to the said City of Columbus, as said Lot #1 is numbered and delineated upon the

recorded plat thereof, of record in Plat Book 2, page 177, Recorder's Office, Franklin County, Ohio, which portion of said lot is bounded and described as follows:

Commencing at the Northeast corner of said Lot #1, lying in the southerly line of Fifth Avenue; thence westerly a distance of 34 feet, more or less along the North line of said Lot #1 (the south line of Fifth Avenue) to the Northwest corner thereof;

Thence southerly along the westerly line of said Lot #1 a distance of 100.13 feet to a stake; thence easterly parallel with the North line of said Lot #1 to the East line of said Lot #1 (the westerly line of Summit Street);

Thence North on the East line of said Lot #1 (a westerly line of Summit Street), a distance of one hundred two and eighty-three one hundredths (102.83) feet to the place of beginning.

Parcel Number: 010-005514

#### **Tract 4**

Being located in the State of Ohio, County of Franklin, and City of Columbus:

Being Lot No. 2 of Willbury M. Green's Subdivision of Lots Nos. 37, 38, and 39 of Deshler's Addition to Phelan's Mt. Pleasant Addition to said City of Columbus, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 2, page 177, Recorder's Office, Franklin County, Ohio, being more particularly described as follows:

Beginning at a point in the southerly line of Fifth Avenue, 34 feet, more or less, westerly of the intersection of the westerly line of Summit Street with the southerly line of Fifth Avenue and being the Northwest corner of Lot No. 1 in said Subdivision and the Northeast corner of said Lot 2, thence westerly along the southerly line of Fifth Avenue a distance of 40 feet to the Northwest corner of said Lot No. 2;

Thence southerly along the westerly line of said Lot No. 2 a distance of 178.12 feet to a point; thence run easterly along the southerly line of said Lot No. 2 a distance of 40 feet to the Southeast corner of said Lot No. 2;

Thence northerly along the easterly line of said Lot No. 2 a distance of 178.12 feet to the point of beginning.

Parcel Number: 010-005514

#### **Tract 5**

Being located in the State of Ohio, County of Franklin, and City of Columbus:

Being part of Lot No. 1 Millbury M. Green's Subdivision of Lots Nos. 37, 38, and 39 of Deshler's Addition, as the same is shown of record in Plat Book 2, page 177, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at an iron pin in the east line of Lot No. 2 in the above mentioned subdivision, said pin being at the southwest corner of that part of Lot No. 1 deeded to the Sun Oil Company in 1938; thence with the south line of said part of Lot No. 1 so deeded South 88 degrees 59 minutes East 55.9 feet to an iron pin in the west line of Summit Street;

Thence with the west line of Summit Street South (10) Ten degrees 24 minutes East 45 feet to an iron pin; thence North 88 degrees 52 minutes West parallel with the south line of Lot No. 1 65.61 feet to an iron pin in the east line of Lot No. 2 above mentioned;

Thence with the line between Lots No. 1 and 2 North 1 degree 58 minutes East 43.95 feet to the place of beginning.

Parcel Number: 010-005514

## Tract 6

Being located in the State of Ohio, County of Franklin, and City of Columbus:

Being all of Lots 3 and 4 of M.M. Greene's Subdivision of Lots 37, 38 and 39 of W.G. Deshler's Addition of Phelan's Mt. Pleasant Addition, as the same are numbered and delineated upon the recorded plat thereof in Plat Book 2, page 177, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Commencing at a point at the intersection of the southerly line of East Fifth Avenue (60 feet wide), with the westerly line of Summit Street (60 feet wide), and at the northeasterly corner of Lot 1 of M.M. Greene's Subdivision;

Thence West, (the distance of the Southerly line of said E. Fifth Avenue and the northerly line of said M.M. Greene's Subdivision was assumed to be the East and West, for the purpose of this description only, and all bearings used herein are relatively to each other only), along the southerly line of said E. Fifth Ave., and along the northerly line of Lots 1 and 2 of said M.M. Greene's Subdivision, a distance of 73.89 feet to an iron pin at the northwesterly corner of said Lot 2 and the northeasterly corner of said Lot 3, and the true point of beginning at this description;

Thence South 0 degrees 58 minutes west, along the line between said lots 2 and 3, a distance of 178.28 feet to a point at the southeasterly corner of said Lot 3, (southwesterly corner of Lot 2) and in the northerly line of Greenwood Avenue, said last described point being South 89 degrees 55 minutes West, along the southerly line of said Lots 1 and 2, and along the northerly line of said Greenwood Avenue, a distance of 112.83 feet from a point at southeasterly corner of said Lot 1, and at the intersection of the westerly line of said Summit Street, with the northerly line of said Greenwood Avenue;

Thence South 89 degrees 55 minutes West, along the southerly line of said Lots 3 and 4, and along the northerly line of said Greenwood Avenue, a distance of 79.88 feet to an iron pin at the southwest corner of said Lot 4 and the southwest corner of Lot 5 of said M.M. Greene's Subdivision; thence North 0 degrees 58 minutes East along the line between said Lots 4 and 5 a distance of 178.40 feet to a point at the northwesterly corner of said Lot 4, (and at the northeasterly corner of said Lot 5), and in the southerly line of said East Fifth Avenue;

Thence East, along the northerly line of said Lots 3 and 4 along the southerly line of said East Fifth Avenue, a distance of 79.88 feet to the place of beginning.

Parcel Number: 010-020042 and 010-014566

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is developed with a mixed-use development in accordance with the submitted site plan, or those uses in the C-4, Commercial and R-4, Residential Districts.

**SECTION 3.** That this ordinance is further conditioned on the Subject Site being developed in general conformance with the Plan titled, "**BURWELL COLUMBUS, OHIO SITE PLAN**," dated May 29, 2015, drawn by CT Consultants, and signed by Jackson B. Reynolds, III, Attorney for the Applicant. The plan 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 of Building and Zoning Services, or a designee, upon submission of the appropriate data regarding the proposed adjustment. **The number of dwelling units, number of building stories, and square footages of uses depicted on the plan may be reduced as approved by the Italian Village Commission.**

**SECTION 4.** That this ordinance is further conditioned upon 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.