



## Legislation Text

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**File #: 0800-2015, Version: 2**

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### **Council Variance Application: CV14-065**

**APPLICANT:** Buckeye Real Estate; c/o Donald Plank, Atty.; Plank Law Firm; 145 East Rich Street, 3<sup>rd</sup> Floor; Columbus, OH 43215.

**PROPOSED USE:** Mixed-use development with ground-floor residential uses in the C-4 District, and commercial parking in the AR-4 District, with reduced development standards.

**UNIVERSITY AREA COMMISSION RECOMMENDATION:** Approval.

**UNIVERSITY AREA REVIEW BOARD RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is separated into two development subareas. 10 West Ninth Avenue is located within the Urban Commercial Overlay (UCO), and is developed with a three-story apartment building fronting North High Street, and a six-unit apartment building fronting West Ninth Avenue, and is zoned in the C-4 Commercial District. 40 West Ninth Avenue is located within the University Impact District, and is developed with apartment buildings zoned in the AR-4, Apartment Residential District. The requested Council variance proposes to connect the buildings, and provide 5,600 square feet of office space and ground floor residential units on the first floor with a total of eighteen (18) apartment units at 10 West Ninth Avenue, and will allow redevelopment of 40 West Ninth Avenue with a three-story, eighteen-unit apartment building with attached parking garage. The variance also allows parking for the 10 West Ninth Avenue site to be provided on the 40 West Ninth Avenue site. Variances to driveway width, minimum number of parking spaces, AR-4 yard standards, University Planning Overlay standards, and UCO window glass requirements are included in the request. The site is within the planning area of the *University District Plan (2015)*, which recommends regional commercial and higher density residential uses for this location. The eastern part of the site is also within the boundaries of the *University/High Street Development & Design Guidelines (2002)*, which encourages mixed-use redevelopment, with extensive retail and entertainment facing High Street, together with housing and office uses. The proposed development is designed to integrate well with the surrounding neighborhood. Staff supports this request because it is consistent with applicable land use recommendations and guidelines, will not add incompatible uses to the neighborhood, and will help provide additional student housing options within close proximity to the university.

To grant a Variance from the provisions of Sections 3333.035, AR-4 apartment residential district use; 3356.03, C-4, Permitted uses; 3312.13(B), Driveway; 3312.49, Minimum numbers of parking spaces required; 3333.15(C), Basis of computing area; 3333.22, Maximum side yard required; 3333.24, Rear yard; 3372.562(A),(B), Landscaped area and treatment; 3372.563, Maximum lot coverage; 3372.564(A), Parking; 3372.565, Building line; 3372.566(C), Building separation and size; 3372.567, Maximum floor area; 3372.568(B), Height; and 3372.605(D), Building design standards, of the Columbus City Codes; for the property located at **10 AND 40 WEST NINTH AVENUE (43201)**, to allow a mixed-use development with reduced development standards in the AR-4, Apartment Residential and C-4, Commercial Districts **and to declare an emergency** (Council Variance # CV14-065).

**WHEREAS**, by application No. CV14-065, the owner of property at **10 AND 40 WEST NINTH AVENUE (43201)**, is requesting a Council Variance to allow a mixed-use development with reduced development standards including offsite commercial and residential parking in the AR-4, Apartment Residential District, and ground-floor residential uses in the C

-4, Commercial District; and

**WHEREAS**, Section 3333.035, AR-4 apartment residential district use, prohibits parking for off-site uses, while the applicant proposes a four-story, eighteen-unit apartment building with a 76-space parking garage in the 40 West Ninth Avenue subarea that will contain parking for the office use and the residential units located in the 10 West Ninth Avenue subarea; and

**WHEREAS**, Sections 3356.03, C-4 permitted uses, permits dwelling units only above certain commercial uses, while the applicant proposes connection of an existing six-unit apartment building to a three-story mixed-use building for a total of eighteen (18) apartment units in the 10 West Ninth Avenue subarea; and

**WHEREAS**, Section 3312.13(B), Driveway, requires a minimum width of 20 feet for driveways serving commercial parking lots, while the applicant proposes a driveway width of sixteen (16) feet for in the 10 West Ninth Avenue subarea; and

**WHEREAS**, Section 3312.49, Minimum numbers of parking spaces required, requires 1 parking space per 450 square feet of general office area, and 1.5 parking spaces per dwelling unit, totaling thirty-seven (37) required spaces for a mixed-use building containing 5,600 square feet of general office space utilizing the UCO-permitted 25% reduction, and eighteen (18) apartment units, while the applicant proposes nine (9) parking spaces on the 10 West Ninth Avenue subarea, with the balance being provided in the parking garage in the 40 West Ninth Avenue subarea;

**WHEREAS**, Section 3333.15(C), Basis of computing area, limits lot coverage to fifty percent (50%) of the lot area, while the applicant proposes eighty-seven percent (87%) lot coverage for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3333.22, Maximum side yard required, requires that the sum of the widths of each side yard shall equal or exceed twenty (20) percent of the lot width, provided that no more than sixteen (16) feet need to be devoted, a total requirement of sixteen (16) feet for a lot width of one-hundred forty-three (143) feet, while the applicant proposes a maximum side yard of ten (10) feet for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3333.24, Rear yard, requires that each dwelling, apartment house, or other principal building shall be erected so as to provide a rear yard totaling no less than twenty-five percent (25%) of the total lot area, while the applicant proposes a 0.5% rear yard for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.562(A),(B), Landscaped area and treatment, requires that at least five percent (5%), or approximately 1,250 square feet of the lot area be planted and located behind the most rear portion of the residential building, and that a shade tree of no less than two and one-half (2.5) inch caliper be planted in the rear yard for every ten (10) parking spaces provided (eight trees for 76 parking spaces), while the applicant proposes a landscaped area of 143 square feet with no tree plantings for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.563, Maximum lot coverage, requires that a building or combination of buildings, including any rear or side porch or roofed stairs but excluding any balcony, walkway, deck, front porch, carport or garage, shall cover no more than thirty percent (30%) of the lot area, while the applicant proposes eighty-seven percent (87%) lot coverage for the new building, including the excluded areas, in the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.564(A), Parking, requires that no more than thirty-five (35) percent of any lot area shall be devoted to the parking and maneuvering of vehicles, while the applicant proposes sixty percent (60%) of the lot area for the attached parking garage for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.565, Building line, requires a minimum building line of the average of the building lines on adjacent lots, or 18.5 feet for this lot, while the applicant proposes a building line of 13.5 feet for the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.566(C), Building separation and size, requires that no building shall exceed 10,200 square feet of calculated floor area, while the applicant proposes 18,400 square feet of calculated floor area for the new building in the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.567, Maximum floor area, requires a maximum calculated floor area ratio (F.A.R.) of not greater than 0.60, while the applicant proposes a floor area ratio of 0.80 for the new building in the 40 West Ninth Avenue subarea, noting that the buildings that are being replaced in this subarea currently have a floor area ratio of 0.80; and

**WHEREAS**, Section 3372.568(B), Height, requires that the majority of the front principal cornice or eave shall be between the height of seventeen (17) feet and twenty-three (23) feet from the finished grade line of the lot, while the applicant proposes a total height of thirty-two (32) feet for the new building in the 40 West Ninth Avenue subarea; and

**WHEREAS**, Section 3372.605(D), Building design standards, requires sixty percent (60%) glass between two (2) feet and ten (10) feet above the sidewalk for the first ten (10) feet of the West Ninth façade west of North High Street, while the applicant proposes to maintain forty percent (40%) for the existing corner building in the 10 West Ninth Avenue subarea; and

**WHEREAS**, the University Area Commission recommends approval; and

**WHEREAS**, the University Area Review Board recommends approval; and

**WHEREAS**, City Departments recommend approval because the requested variances for mixed use development is consistent with the land use recommendations of the *University District Plan* and *University/High Street Development & Design Guidelines*. The proposed development is designed to integrate well with the surrounding neighborhood, will not add incompatible uses, and will help provide additional student housing options within close proximity to the university; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificates of Occupancy for the proposed new 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 **10 AND 40 WEST NINTH AVENUE (43201)**, in using said property as desired; and

**WHEREAS**, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance to begin construction as soon as possible for the immediate preservation of the public peace, property, health and safety; now, therefore:

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

**SECTION 1.** That a variance from the provisions of Sections 3333.035, AR-4 apartment residential district use; 3356.03, C-4, Permitted uses; 3312.13(B), Driveway; 3312.49, Minimum numbers of parking spaces required; 3333.15 (C), Basis of computing area; 3333.22, Maximum side yard required; 3333.24, Rear yard; 3372.562(A),(B), Landscaped area and treatment; 3372.563, Maximum lot coverage; 3372.564(A), Parking; 3372.565, Building line; 3372.566(C), Building separation and size; 3372.567, Maximum floor area; 3372.568(B), Height; and 3372.605(D), Building design standards, of the Columbus City Codes, is hereby granted for the property located at **10 AND 40 WEST NINTH**

**AVENUE (43201)**, insofar as said sections prohibit a mixed-use development including offsite commercial and residential parking in the AR-4, Apartment Residential District, and ground-floor residential uses in the C-4, Commercial District, with the following for the 10 West Ninth Avenue Subarea: a reduced driveway width from twenty (20) feet to sixteen (16) feet; a reduction of on-site parking from thirty-seven (37) required spaces to nine (9) spaces, and a reduced window glass percentage from sixty percent (60%) to forty percent 40% along the West Ninth frontage; and with the following for the 40 West Ninth Avenue Subarea: an increased maximum lot coverage from fifty percent (50%) and thirty percent (30%) respectively to eighty-seven percent (87%); a reduced maximum side yard from sixteen (16) feet to ten (10) feet; a reduced rear yard from twenty-five percent (25%) to 0.5 %; a reduced landscaped treatment area from five percent (5%) to 0.5 % with no trees where eight (8) would be required; increased garage lot area coverage from thirty-five percent (35%) to sixty percent (60%); a reduced building line from 18.5 feet to 13.5 feet; increased calculated floor area from 10,200 square feet to 18,400 square feet; increased F.A.R. from 0.60 to 0.80; and increased height of the majority of the front principal cornice or eave from between seventeen (17) feet and twenty-three (23) feet to thirty-two (32) feet; said property being more particularly described as follows:

**10 AND 40 WEST NINTH AVENUE (43201)**, being 0.89± acres located at the northwest corner of West Ninth Avenue and North High Street, and being more particularly described as follows:

**C-4, Commercial parcels, 10 West Ninth Avenue**  
**PID: 010-04779, 010-015100, (0.327± acre; 14,254± SF)**

Situated in the State of Ohio, County of Franklin, and City of Columbus and bounded and described as follows:

Being a part of Lot Number One (1) of A. Converse's North High Street Addition to said City, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 3, page 401, Recorder's Office, Franklin County, Ohio.

Beginning at the southeast corner of said Lot No. 1, thence westerly with the south line of said lot, 100 feet to a point, thence northerly parallel to the west line of said lot to the north line thereof, thence easterly with the north line of said lot to the northeast corner thereof; thence southerly with the east line of said lot to the place of beginning.

Also, an easement in the right to use a lot adjoining said premises on the west for sewer purposes, as granted in deed given by Guy C. Fergus and wife to David E. Huston, which deed is dated April 7, 1911, and recorded in Deed Book 514, page 12, Recorder's Office, Franklin County, Ohio.

Parcel Number: 010-047779

Situated in the State of Ohio, County of Franklin, and City of Columbus and bounded and described as follows:

Being a part of Lot Number One (1) of A. Converse's North High Street Addition to said City, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 3, page 401, Recorder's Office, Franklin County, Ohio, except that part of said lot conveyed to David E. Huston by deed record in Volume 514, page 12, of Deed Record, Franklin County, Ohio. The part of said lot herein conveyed being a strip of land ninety (90) feet wide off of the entire west end of said lot, the east line of which is parallel to the west line of said lot; subject to an easement to use and maintain a sewer, as set forth in the deed from Guy C. Fergus to David E. Huston, in Deed Book 514, page 12.

Parcel Number: 010-015100

**AR-4, Apartment Residential parcels, 40 West Ninth Avenue**  
**PID: 010-012756, 010-021983, 010-049478, (0.563± acre; 24,510± SF)**

Situated in the State of Ohio, County of Franklin, and City of Columbus and bounded and described as follows:

Being Lot Number Five (5) in A. Converse's North High Street Addition, to said City of Columbus, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 3, page 401, Recorder's Office, Franklin County, Ohio, and a triangular piece of ground comprising an area of about 50 square feet abutting the northeast corner of said Lot No. 5, abutting Wall Street on the east and a 25 foot alley on the north side thereof, being the first alley north of 9<sup>th</sup> Avenue, as vacated on April 4, 1921, by Ordinance No. 32484, adopted by the City Council of the City of Columbus, Ohio.

Parcel Number: 010-012756

Situated in the State of Ohio, County of Franklin, and City of Columbus and bounded and described as follows:

Being Ten (10) feet off the east side of Lot Number Seven (7) and all of Lot Number Six (6) of A. Converse's North High Street Addition as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 3, page 401, Recorder's Office, Franklin County, Ohio.

Parcel Number: 010-021983

Situated in the State of Ohio, County of Franklin, and City of Columbus and bounded and described as follows:

Being Lot Number Eight (8) and Twenty-six (26) feet off of the west side of Lot Number Seven (7) in A. Converse's North High Street Addition, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book No. 3, page 401, Recorder's Office, Franklin County, Ohio.

Parcel Number: 010-049478

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used as a mixed use building with 5,600 square feet of office space and a total of eighteen (18) apartment units in the 10 West Ninth Avenue Subarea; and an eighteen (18) unit apartment building with attached 76-space parking garage in the 40 West Ninth Avenue Subarea, or those uses permitted in the C-4, Commercial and AR-4, Apartment Residential Districts.

**SECTION 3.** That this ordinance is further conditioned on the Subject Site being developed in general conformance with the plan titled "**SITE PLAN**," drawn by Rhythm Architecture and Design, dated February 10, 2015, and signed by Donald Plank, 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.

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

**SECTION 5.** That this ordinance is further conditioned on the applicant providing a minimum of twenty-eight (28) parking spaces in the parking garage in the 40 West Ninth Avenue Subarea for the uses located in the 10 West Ninth Avenue Subarea.

**SECTION 6.** ~~That this ordinance shall take effect and be in force from and after the earliest period allowed by law.~~  
**That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or 10 days after its passage if the Mayor neither approves nor vetoes the same.**