



## Legislation Details (With Text)

**File #:** 1071-2016      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 4/13/2016      **In control:** Zoning Committee

**On agenda:** 5/2/2016      **Final action:** 5/4/2016

**Title:** To grant a Variance from the provisions of Sections 3356.03, C-4, Permitted uses; 3309.14, Height district; 3312.21(A) Landscaping and screening; 3312.49 Minimum number of parking spaces required; 3321.05(B)(1) Vision Clearance; and 3356.11 C-4 district setback lines; of the Columbus City Codes; for the property located at 114 EAST FIFTH AVENUE (43215), to permit a mixed-use development with reduced development standards in the C-4, Commercial District (CV15-058).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. ORD.1071-2016.Attachments.Amended, 2. ORD.1071-2016.Attachments, 3. ORD.1071-2016.Labels

Date	Ver.	Action By	Action	Result
5/4/2016	2	CITY CLERK	Attest	
5/3/2016	2	MAYOR	Signed	
5/2/2016	2	COUNCIL PRESIDENT	Signed	
5/2/2016	1	Zoning Committee	Waive the 2nd Reading	Pass
5/2/2016	1	Zoning Committee	Amended as submitted to the Clerk	Pass
5/2/2016	1	Zoning Committee	Approved	Pass

**Council Variance Application: CV15-058**

**APPLICANT:** Burwell Investments LLC; c/o David Hodge, Atty.; 8000 Walton Parkway, Suite 260; New Albany, OH 43054.

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

**UNIVERSITY AREA COMMISSION RECOMMENDATION:** Disapproval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is zoned in the C-4, Commercial District within the Urban Commercial Overlay, and is developed with an automobile repair facility. The requested Council variance will allow the construction of a three-story mixed-use building consisting of 4,000± square feet of commercial space on the first floor with 13 apartment units on the second and third floor; and a three-story, 20-unit apartment building. Variances for increased building height, reduced parking, reduced vision clearance, reduced parking lot landscaping, and reduced building setbacks are included in the request. The variances are supportable due to the difficulties of infill development on a lot of this size, the urban character of the location that encourages walkability, and reduced setbacks of surrounding development in conjunction with the Urban Commercial Overlay. The site is located within the planning area of the *University District Plan (2015)*, which recommends neighborhood-scale mixed uses for this location. The site is located directly north of a site that received a Council variance to allow a similar multi-story predominantly residential project in the C-4, Commercial District (Ordinance No. 1518-2015; CV14-058). This proposal

will permit a multi-story mixed-use development that is consistent with the land use recommendations of the *University District Plan* and the development pattern in the surrounding neighborhood.

To grant a Variance from the provisions of Sections 3356.03, C-4, Permitted uses; 3309.14, Height district; 3312.21(A) Landscaping and screening; 3312.49 Minimum number of parking spaces required; 3321.05(B)(1) Vision Clearance; and 3356.11 C-4 district setback lines; of the Columbus City Codes; for the property located at **114 EAST FIFTH AVENUE (43215)**, to permit a mixed-use development with reduced development standards in the C-4, Commercial District (CV15-058).

**WHEREAS**, by application No. CV15-058, the owner of property at **114 EAST FIFTH AVENUE (43215)**, is requesting a Variance to permit a mixed-use development with reduced development standards in the C-4, Commercial District; and

**WHEREAS**, Section 3356.03, C-4 permitted uses, permits residential uses only above certain commercial uses, while the applicant proposes ground floor residential uses as part of a mixed-use development with 4,000± square feet of commercial space and 33 residential units; and

**WHEREAS**, Section 3309.14, Height districts, requires a maximum building height of 35 feet at the setback line for this property, while the applicant proposes multi-story buildings with heights not to exceed 45 feet, exclusive of decorative cornices and rooftop-mounted mechanical equipment, as reflected on the attached site plan; and

**WHEREAS**, Section 3312.21(A), Landscaping and screening, requires a minimum of 4 parking lot trees, while the applicant proposes 0 trees; and

**WHEREAS**, Section 3312.49, Minimum numbers of parking spaces required, requires 1.5 spaces per apartment unit, **and** 1 space per 250 square feet of retail space, ~~and 1 parking space for every 75 square feet of restaurant space.~~ Assuming the commercial floor area included up to ~~2,000~~ **4,000** square feet of ~~restaurant~~ **retail** space, ~~the most intense use,~~ there would be a maximum total requirement of ~~77~~ **58** spaces, while the applicant proposes 46 parking spaces; and

**WHEREAS**, Section 3321.05(B)(1), Vision clearance, requires a ten-foot vision clearance triangle at the corner of East Fifth Avenue and Frances Place, while the applicant proposes to encroach into the vision clearance triangle as shown on the site plan; and

**WHEREAS**, Section 3356.11, C-4 district setback lines, requires the northern building to be set back 40 feet from Summit Street, while the applicant proposes an 8 foot setback to be consistent with the mixed-use building to the south and the Urban Commercial Overlay; and

**WHEREAS**, The University Area Commission recommends disapproval; and

**WHEREAS**, City Departments recommend approval because the proposed Council variance will permit a mixed-use development that is consistent with the land use recommendations of the *University District Plan*, trends in urban infill development, and the development standards and pedestrian nature of the surrounding neighborhood. The request is consistent with the property to the south which also received a Council variance for similar multi-story mixed-use development; and

**WHEREAS**, said 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 roads, 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 **114 EAST FIFTH AVENUE (43215)**, in using said property as desired and; and

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

**SECTION 1.** That a variance from the provisions of Sections 3356.03, C-4, Permitted uses; 3309.14, Height district; 3312.21(A) Landscaping and screening; 3312.49 Minimum number of parking spaces required; 3321.05(B)(1) Vision Clearance; and 3356.11 C-4 district setback lines; of the Columbus City Codes, is hereby granted for the property located at **114 EAST FIFTH AVENUE (43215)**, insofar as said sections prohibit ground floor residential uses in the C-4 Commercial District; with an increased building height from 35 feet to up to 45 feet, exclusive of decorative cornices and rooftop-mounted mechanical equipment; a parking lot tree reduction from 4 trees to 0 trees; a parking space reduction from ~~77~~ **58** spaces to 46 spaces; encroachment into the vision clearance triangle at the intersection of East Fifth Avenue and Frambes Place; and a reduced building setback line from 40 feet to 8 feet for the northern residential building; said property being more particularly described as follows:

**114 EAST FIFTH AVENUE (43215)**, being 0.7± acres at the northwest corner of East Fifth Avenue and Summit Street, and being more particularly described as follows:

**Tract I**

Situated in the State of Ohio, County of Franklin and in the City of Columbus and being a tract having a frontage of 23 ft. on Summit Street extending back across Lots No. 1, No. 2 and No. 3 of the Marietta College Subdivision, as the same is shown of record in Plat Book 7, page 53 and being the same property conveyed by deed to Sylvester W. and Hazel E. Hardesty, as the same is shown of record in Deed Book 1693, page 302, both of the foregoing records being in the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at an iron pin in the west line of Summit Street, being also the east line of Lot No. 1, above mentioned, said iron pin being at the southeast corner of the Hardesty Property, above mentioned, being also the northeast corner of a tract conveyed by deed to the Cleveland Trust Company, as the same is shown of record in Deed Book 1769, page 632, Recorder's Office, Franklin County, Ohio; thence Westerly, across Lots No. 1, 2 and No. 3 above mentioned, along the south line of the aforesaid Hardesty Property, being also the north line of the aforesaid Cleveland Trust Company Property, a distance of 105.77 ft. to an iron pin in the west line of Lot No. 3 at the southwest corner of the Hardesty Property and the northwest corner of the Cleveland Trust Company Property; thence Northerly, along the west line of Lot No. 3, being also the west line of the Hardesty Property, a distance of 23.0 ft. to an iron pin at the northwest corner of the Hardesty Property; thence Easterly, across Lots No. 1, No. 2 and No. 3, along the north line of the Hardesty Property, a distance of 105.77 ft. to an iron pin in the east line of Lot No. 1, being also the west line of Summit Street at the northeast corner of the Hardesty Property; thence Southerly, along the east line of Lot No. 1, and the west line of Summit Street, being also the east line of the Hardesty Property, a distance of 23.0 ft. to the place of beginning, containing 2,433 square feet, more or less; subject to all easements and restrictions shown of record.

**Tract II**

Situated in the State of Ohio, County of Franklin, and in the City of Columbus and being 35 ft. off the north end of Lots No. 1, No. 2 and No. 3 of Marietta College Subdivision, as the same is shown of record in Plat Book 7, page 53 and being the same property conveyed by deed to Richard L. and Helen P. Wentz, as the same is shown of record in Deed Book

1372, page 287, both of the foregoing records being in the Recorder's Office, Franklin County, Ohio and being more particularly described as follows:

Beginning at an iron pin at the northeast corner of Lot No. 1, above mentioned, at the point of intersection of the west line of Summit Street with the south line of a 20 ft. alley, being also the northeast corner of the Wentz Property, above mentioned; thence Southerly, along the east line of Lot No. 1 and the west line of Summit Street, being also the east line of the Wentz Property, 35 ft. to an iron pin at the southeast corner of the Wentz Property, being also the northeast corner of a tract conveyed by deed to Sylvester W. and Hazel E. Hardesty, as the same is shown of record in Deed Book 1693, page 302, Recorder's Office, Franklin County, Ohio; thence westerly, across Lots No. 1, No. 2 and No. 3, above mentioned, along the south line of the Wentz property, being also the north line of the Hardesty Property, a distance of 105.77 ft. to an iron pin in the west line of Lot No. 3, at the southwest corner of the Wentz Property and the northwest corner of the Hardesty Property; thence Northerly, along the west line of Lot No. 3 and the west line of the Wentz Property, a distance of 35.0 ft. to an iron pin at the northwest corner of Lot No. 3, being also the northwest corner of the Wentz Property and in the south line of a 20 ft. alley; thence Easterly, with the north line of Lots No. 1, No. 2 and No. 3 and the south line of the aforesaid 20 ft. alley, being also the north line of the Wentz Property, a distance of 105.77 ft. to the place of beginning, containing 3,702 square feet, more or less; subject to all easements and restrictions shown of record.

### **Tract III**

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

Being the South Ninety-six (96) feet off of Lots Nos. 1, 2 and 3 of Marietta College Subdivision of the East two-thirds (2/3) of Lot No. 2 of John Hyer's Subdivision, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book No. 7, page 53, Recorder's Office, Franklin County, Ohio.

Excepting therefrom a triangular shaped strip of land off of the south east corner of said Lot No. 1 with a base of 5 feet on Fifth Avenue and running to a point at the northeast corner of the premises above described, conveyed to the City of Columbus, for street purposes by deed recorded in Deed Book 1010, page 538, Recorder's Office, Franklin County, Ohio.

### **Tract IV**

Situated in the City of Columbus, County of Franklin and State of Ohio and being a tract of land having a frontage of twenty-one (21) feet on Summit Street and a depth of one hundred five and six tenths (105.6) feet and being a part of Lots One (1), two (2) and three (3) of the Marietta College Subdivision of the East two thirds (2/3) of John Hyer's Subdivision, Plat Book No. 7, page 53, Recorder's Office, Franklin County, Ohio and more particularly described as follows:

Beginning at a point in the east line of Lot No. 1 of said Marietta College Subdivision, said point being 96 feet north of the southeast corner of Lot No. 1; thence West across Lots No. 1, 2 and 3, of Subdivision, on a line parallel to the south line of said Lots, one hundred five and six tenths (105.6) feet to a point in the west line of Lot No. 3, said point being ninety six (96) feet north of the Southwest corner of said Lot No. 3; thence North along the West line of Lot No. 3, twenty-one (21) feet to a point; thence on a line parallel to the south line of said lots across Lots three (3), two (2) and one (1) of said subdivision, one hundred five and six-tenths (105.6) feet to a point in the East line of Lot No. 1; thence South twenty-one (21) feet to the place of beginning.

According to the survey of the Jennings-Lawrence Company, registered Surveyors, dated July 8, 1953.

**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 ground floor residential uses, 4,000± square feet of commercial space, and 33 apartment units, or those uses permitted in the C-4, Commercial District.

~~**SECTION 3.** That this ordinance is further conditioned on a maximum of 2,000± square feet of restaurant uses permitted to operate on the site in addition to other permitted uses.~~

**SECTION 4 3.** That this ordinance is further conditioned on the Subject Site being developed in general conformance with the site plan titled, "**SITE COMPLIANCE PLAN FOR BURWELL POINT**," dated March 31, 2016; and the elevations titled, "**BUILDING ELEVATIONS**," dated February 12, 2016, both signed by David Hodge, Attorney for the Applicant. 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 adjustments to the plan 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 5 4.** That this ordinance is further conditioned on the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.~~

**SECTION 6 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.