



# City of Columbus

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

## Legislation Text

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**File #:** 0182-2017, **Version:** 1

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### **Council Variance Application: CV16-075**

**APPLICANT:** The WODA Group, Inc., c/o Donald Plank, Atty.; Plank Law Firm; 423 East Town Street, 2<sup>nd</sup> Floor; Columbus, OH 43215.

**PROPOSED USE:** Senior housing and parking lot.

**LIVINGSTON AVENUE AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site consists of three parcels zoned in the C-4, Commercial District, with the two west parcels being developed with a parking lot, and the east parcel developed with the former Livingston Theater and other vacant commercial buildings. The frontage parcels are located within the Livingston Avenue Urban Commercial Overlay. The requested variance will allow conversion of the theater building with newly-constructed additions for 45 senior housing apartment units (Subarea A). Additional variances to permit offsite parking (Subarea B), a parking space reduction of 31 spaces (68 to 37), and reduced vision clearance triangles and setbacks are included in the request. The site is within the planning area of the *Near Southside Plan* (2011), which recommends "Mixed Use Neighborhood" for this location, which supports mixed use development, including multi-unit residential development at 16-28 units per acre, on primary corridors. Although the proposed development exceeds the recommended density, the proposal would result in the preservation of an existing contributing building, and will contribute to the traditional and established development pattern along East Livingston Avenue as reflected on the attached site plan.

To grant a Variance from the provisions of Sections 3356.03, C-4, permitted uses; 3312.21(A)(2), Landscaping and screening; 3312.27(4), Parking setback line; 3312.49, Minimum numbers of parking spaces required; and 3356.11, C-4 district setback lines, of the Columbus City Codes; for the property located at **1573 EAST LIVINGSTON AVENUE (43205)**, to allow 45 senior housing apartment units and a parking lot with reduced development standards in the C-4, Commercial District (Council Variance # CV16-075).

**WHEREAS**, by application # CV16-075, the owner of property at **1573 EAST LIVINGSTON AVENUE (43205)**, is requesting a Council Variance to allow 45 senior housing apartment units with reduced development standards in the C-4, Commercial District; and

**WHEREAS**, Section 3356.03, C-4, permitted uses, does not permit ground level residential use, while the applicant proposes 45 senior housing apartment units, including ground floor residential uses; and

**WHEREAS**, Section 3312.21(A)(2), Landscaping and screening, requires that interior parking lot trees shall be planted in landscaped islands or peninsulas containing a minimum soil area of 145 square feet per tree, while the applicant proposes that the minimum soil area of one parking lot island in Subarea B be reduced to 116 square feet, as noted on the Site Plan; and

**WHEREAS**, Section 3312.27(4), Parking setback line, requires a parking setback of ten (10) feet from the street right-of-way line, while the applicant proposes a parking setback line of 5 feet for the south 50 feet of Subarea B along Geers



Avenue to match the permitted UCO setback of 5 feet along the northern portion of Subarea B; and

**WHEREAS**, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1.5 parking spaces per apartment unit, a total of 68 parking spaces for 45 units, while the applicant proposes to maintain zero parking spaces on Subarea A, but will provide 37 parking spaces on Subarea B, which are for exclusive use by the apartment residents in Subarea A; and

**WHEREAS**, Section 3356.11, C-4 district setback lines, requires a building setback line of 60 feet along East Livingston Avenue and 25 feet along Geers Avenue, while the applicant proposes a building setback line of 0 feet for existing and proposed construction in Subarea A; and

**WHEREAS**, the Livingston Avenue Area Commission recommends approval; and

**WHEREAS**, City Departments recommend approval because the proposed senior housing use is consistent with the land use recommendations of the *Near Southside Plan*. Although the proposed development exceeds the recommended density in the Plan, the proposal would result in the preservation of an existing contributing building, and will contribute to the traditional and established development pattern along East Livingston Avenue as reflected on the attached site plan; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and a Certificate of Occupancy for the proposed new 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 **1573 EAST LIVINGSTON AVENUE (43205)**, in using said property as desired; 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; 3312.21(A)(2), Landscaping and screening; 3312.27(4), Parking setback line; 3312.49, Minimum numbers of parking spaces required; and 3356.11, C-4 district setback lines, of the Columbus City Codes; is hereby granted for the property located at **1573 EAST LIVINGSTON AVENUE (43205)**, insofar as said sections prohibit a 45-unit senior housing apartment building in the C-4, Commercial District, including ground-floor residential use; with a reduced soil area of one parking lot tree island from 145 to 116 square feet in Subarea B; reduced parking setback line along Geers Avenue for the southern 50 feet of Subarea B from 10 feet to 5 feet; a reduced minimum number of required parking spaces from 68 spaces to 0 spaces on Subarea A, subject to 37 spaces provided offsite on Subarea B; and reduced building setback lines from 60 feet to 0 feet on East Livingston Avenue, and from 25 feet to 0 feet on Geers Avenue in Subarea A; said property being more particularly described as follows:

**1573 EAST LIVINGSTON AVENUE (43205)**, being 1.03± acres located at the southeast and southwest corners of East Livingston Avenue and Geers Avenue, and being more particularly described as follows:

**TRACT I**

Parcel No.: 010-080524

Street Address: 1559 East Livingston Avenue, Columbus, Ohio 43205

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



Being Lots Numbered Twenty-Three (23) and Twenty-Five (25), both inclusive, of the DRIVING PARK ADDITION to said City, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 18, Page 47, Recorder's Office, Franklin County, Ohio.

Excepting therefrom the following:

Situated in the State of Ohio, County of Franklin and in the City of Columbus and being part of Lots 23, 24, and 25 of Driving Park Addition as the same are numbered and delineated upon the recorded plat thereof, or record in Plat Look 18, Page 47 and as conveyed to Mark E. Wolfe by deed of record in Instrument Number: 199812170326168, all references being to those records of the Office of Recorded, Franklin County, Ohio, unless otherwise noted and being more particularly bounded and described as follows:

Commencing at a P.K. nail set at the intersection of the southerly line of E. Livingston Avenue (66 feet wide) and the westerly line of Geers Avenue (50 feet wide) and at the northeasterly corner of said Lot 25;

Thence with the westerly line of Geers Avenue and the easterly line of Lot 25,, South 02° 57' 30" West, 87.00 feet to an iron pin set at THE POINT OF BEGINNING of the following herein described parcel:

Thence continuing with the westerly line of Geers Avenue and the easterly line of Lot 25, South 02° 57' 30" west, 50.00 feet to a railroad spike set at the southeasterly corner of Lot 25 and in the northerly line of a 20 foot alley;

Thence with the northerly line of said alley and the southerly line of Lots 23, 24, and 25, North 87° 14' 00" west, 100.80 feet to an iron pin found at the southwesterly corner of Lot 23 and the southeasterly corner of Lot 22 of said Driving Park Addition;

Thence with the westerly line of Lot 23 and the easterly line of Lot 22, North 02° 57' 30" east, 50.00 feet to an iron pin set;

Thence across Lots 23, 24, and 25, South 87° 14' 00" east, 100.80 feet to the place of beginning and containing 0.116 acres.

Iron pins sets are 30" x 1" O.D. with orange plastic caps inscribed "P.S. #6579". The basis of bearings for the foregoing description is from Plat Book 18, Page 47, the southerly line of E. Livingston Avenue held as South 87° 14' east.

#### **TRACTS II-V**

Parcel No.: 010-080525

Street Address: 1567-1583 E. Livingston Avenue, Columbus, Ohio 43205

#### **TRACT II**

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

Begin Lots Numbered Twenty-Six (26) to Thirty (30) both inclusive, of the Driving Park Addition to said City, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 18, Page 47, Recorder's Office, Franklin County, Ohio.

#### **TRACT III**

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

Being Lot Number One (1) in Lenox Addition, said Lenox Addition being a subdivision of 30.267 acres of land in Marion Township (now City of Columbus), part of Half Section No.: 32, Township 5, Range 22, Refugee Land, as said lot is designated and delineated on the recorded plat of said addition, in Plat Book 7, Page 282, in the Office of the Recorder of



Franklin County, Ohio.

**TRACT IV**

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

Being Lot Number Two (2) of Lenox Addition, except eight (8) feet off the east side thereof, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 7, Page 282, in the Office of the Recorder of Franklin County, Ohio.

**TRACT V**

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

Being eight (8) feet off the east side of the South 80 feet of Lot Number Two (2) of Lenox Addition and two (2) feet off the west side of the south 80 feet of Lot Number Three (3) of Lenox Addition, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 7, Page 282, in the Office of Recorder, Franklin County, Ohio (being a strip of ground 10 feet in width by 80 feet in depth).

**TRACT VI**

Parcel No.: 010-252845

Street Address: 1559 East Livingston Avenue, Columbus, Ohio 43205

Situated in the State of Ohio, County of Franklin, and in the City of Columbus and being part of Lots 23, 24, and 25 of Driving Park Addition, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 18, Page 47, and as conveyed to Mark E. Wolfe by deed of record in Instrument Number: 199812170326168, all references being to those records of the Office of Recorder, Franklin County, Ohio, unless otherwise noted and being more particularly bounded and described as follows:

Commencing at a P.K. nail set at the intersection of the southerly line of East Livingston Avenue (66 feet wide) and the westerly line of Geers Avenue (50) feet wide and at the northeasterly corner of said Lot 25;

Thence with the westerly line of Geers Avenue and the easterly line of Lot 25, South 2° 57' 30" west, 87.00 feet to an iron pin set at the POINT OF BEGINNING of the following herein described parcel:

Thence continuing with the westerly line of Geers Avenue and the easterly line of Lot 25, South 2° 57' 30" west, 50.00 feet to a railroad spike set at the southeasterly corner of Lot 25 and in the northerly line of a 20 foot alley;

Thence with the northerly line of said alley and the southerly line of Lots 23, 24, and 25, north 87° 14' 00" west, 100.80 feet to an iron pin found at the southwesterly corner of Lot 23 and the southeasterly corner of Lot 22 of said Driving Park Addition;

Thence with the westerly line of Lot 23 and the easterly line of Lot 22, North 02° 57' 30" east, 50.00 feet to an iron pin set;

Thence across Lot 23, 24, and 25, South 87° 14' 00" east, 100.80 feet to the place of beginning and containing 0.116 acres.

Iron pins sets are 30" x 1" O.D. with orange plastic caps inscribed "P.S. #6579". The basis of bearings for the foregoing description is from Plat Book 18, Page 47, the southerly line of E. Livingston Avenue held as South 87° 14' east.

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a multi-unit residential development consisting of 45 senior housing apartment units and parking lot in accordance with the submitted site plan, or those uses permitted in the underlying C-4, Commercial District.



**SECTION 3.** That this ordinance is further conditioned on the Subject Site being developed in general conformance with the plan titled "**THE LIVINGSTON - SITE PLAN**," drawn by PCI Design Group, dated December 30, 2016, 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 final 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 4.** That this ordinance is further conditioned on the following:

The applicant shall be responsible for the cost of providing an accessible pedestrian path in the Geers Avenue and/or East Livingston Avenue right-of-way for access from the offsite parking lot in Subarea B to the senior housing apartment building in Subarea A. Location of this access is subject to the review and approval of the Department of Public Service.

**SECTION 5.** That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed new use.

**SECTION 6.** That this ordinance is further conditioned on applicant submitting a rezoning application to rezone the property to an appropriate zoning district to reflect the senior housing land use within 18 months of the effective date of this ordinance.

**SECTION 7.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.