



# City of Columbus

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

## Legislation Text

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**File #: 2735-2017, Version: 1**

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### **Rezoning Application Z17-023**

**APPLICANT:** Checkers Drive-In Restaurants, Inc.; c/o James Maniace, Atty.; Taft, Stettinius & Hollister LLP; 65 East State Street, Suite 1000; Columbus, OH 43215.

**PROPOSED USE:** Commercial development.

**DEVELOPMENT COMMISSION RECOMMENDATION:** Approval (4-0) on September 14, 2017.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is currently developed with a commercial shopping center zoned in the CPD, Commercial Planned Development District. The requested CPD, Commercial Planned Development District will permit a fast food restaurant on an out-lot parcel (Subarea 1), currently a portion of the parking lot, along the Morse Road Service Road. The majority of the existing shopping center (Subarea 2) will remain unchanged but updates will be made to the CPD text as alterations to the code have rendered the original CPD district (Z05-002) outdated. The site is within the planning area of the *Northland I Area Plan* (2014), which recommends "Community Mixed Use" at this location. The CPD text commits to site plans and also includes commitments to permitted uses, building setbacks, access, and buffering and landscaping for Subarea 1, while providing updates to Subarea 2. Variances to Subarea 2 are included, carried over from the existing CPD (Z05-002), to reduce building and parking/maneuvering setbacks, landscaping, pedestrian walkway, parking lot lighting, parking lot screening, and dumpster screening requirements. The proposal is consistent with the *Northland I Area Plan* recommendation for "Community Mixed Uses" and is compatible with adjacent development along the Morse Road corridor.

To rezone **2100 MORSE ROAD (43229)**, being 22.58± acres located on the north side of Morse Road, 490± feet west of Northtowne Boulevard, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District (Rezoning # Z17-023).

**WHEREAS**, application No. Z17-023 is on file with the Department of Building and Zoning Services requesting rezoning of 22.58± acres from CPD, Commercial Planned Development District, to CPD, Commercial Planned Development District; and

**WHEREAS**, the Development Commission recommends approval of said zoning change; and

**WHEREAS**, the City Departments recommend approval of said zoning change because the requested CPD, Commercial Planned Development District is consistent with the *Northland I Area Plan* recommendation for "Community Mixed Uses" and is compatible with adjacent development along the Morse Road corridor; now, therefore:

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

**SECTION 1.** That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

**2100 MORSE ROAD (43229)**, being 22.58± acres located on the north side of Morse Road at the intersection of Morse

Centre, and being more particularly described as follows:

**Subarea 1**

**Legal Description 0.753 Acres**

Situated in the State of Ohio, County of Franklin, City of Columbus, being located in the Fourth Quarter of Township 2, Range 18, United States Military Lands and being part of the 22.575 Acre tract conveyed to MC-NC, LLC by deed of record in Instrument Number 200408190194927, Recorder's Office, Franklin County, Ohio (all recorded documents are on file in said Recorder's Office, unless otherwise noted) and being more particularly described as follows:

Commencing at a 1 inch iron pipe found at the southwest corner of said 22.575 Acre tract, (being 147 feet northerly at right angles from the centerline of Morse Road), being on the easterly line of Reserve "D" of Northland Village East, as said Reserve is shown and delineated upon the recorded plat thereof, recorded in Plat Book 38, Page 80, and being the northwesterly corner of the City of Columbus 1.248 Acre tract (Deed Book 3641, Page 524), said 1.248 Acre tract was Dedicated to be used as a service road by ORD 558-78 on 4-10-78;

Thence, along part of a south line of said 22.575 Acre tract, and part of the north line of said 1.248 Acre tract (being 147 feet northerly of and parallel with the centerline of said Morse Road) South 84° 26' 50" East, 509.28 feet to a set mag nail at the True Point of Beginning of this description;

Thence, across said 22.575 Acre tract, North 05° 42' 19" East, 183.06 feet to a set mag nail;

Thence, continuing across said 22.575 Acre tract, South 84° 09' 58" East, 180.31 feet to a found 1 inch iron pipe with an orange cap inscribed "P.S. #6579" at a southeast corner of said 22.575 Acre tract, and a northwest corner of said 1.248 Acre tract;

Thence, along an east line of said 22.575 Acre tract, and a west line of said 1.248 Acre tract, South 06° 04' 24" West, 182.18 feet to a point (said point being referenced by a mag nail set South 06° 04' 24" West, 2.00 feet and South 84° 26' 50" East, 2.00 feet therefrom), said point being 147 feet northerly at right angles from the centerline of said Morse Road;

Thence, along part of a south line of said 22.575 Acre tract, and part of a north line of said 1.248 Acre tract, (being 147 feet northerly of and parallel with the centerline of said Morse Road), North 84° 26' 50" West, 179.14 feet to the place of beginning, CONTAINING 0.753 ACRES, subject however to all legal highways, easements, leases, agreements, restrictions of record and of records in the respective utility offices.

**Parcel No: 010-291879**

**Subarea 2**

**21.822 Acre Tract**

Situated in the State of Ohio, County of Franklin, City of Columbus, being located in the Fourth Quarter of Township 2, Range 18, United States Military Lands, and part of the 22.608 Acre tract conveyed to MC-NC, LLC as shown of record in Inst. No. 200405260120588, excepting all of the 0.0327 Acre (Parcel 24WD-2) conveyed to the City of Columbus as shown of record in Inst. No. 200302140046692, all references being to records of the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at an iron pipe found on the westerly line of said 22.608 Acre tract, (being 147 feet northerly at right angles from the centerline of Morse Road), also being on the easterly line of Northland Village East Subdivision's Reserve "D", as said Reserve is shown and delineated upon the recorded plat thereof, of record in Plat Book 38, Page 80, also being the northwesterly corner of a 1.248 Acre tract conveyed to the City of Columbus as shown of record in Deed Book 3641, Page 524;

Thence, along the westerly line of said 22.608 Acre tract, along part of the easterly line of said Reserve "D", North 05 degrees 49 minutes 01 seconds East, 900.25 feet to an iron pipe found at the southwesterly corner of Lot 519 of Northland Park Section 8 Subdivision of record in Plat Book 93, Page 12;

Thence, along the northerly line of said 22.608 Acre tract, along the southerly line of said Northland Park Section 8, South 84 degrees 26 minutes 50 seconds East, 1151.49 feet to an iron pipe found at the southeasterly corner of said Northland Park Section 8, the northeasterly corner of said 22.608 Acre tract, also being on the southerly line of Heatherton Drive (50 feet wide, unimproved);

Thence, along the easterly line of said 22.608 Acre tract, along the southerly line of said Heatherton Drive, South 41 degrees 08 minutes 03 seconds East, 164.82 feet to an iron pipe found at a point of curvature;

Thence, along the easterly line of said 22.608 Acre tract, along the southerly line of said Heatherton Drive and the westerly line of Northtowne Boulevard (60 feet wide - dedicated in Plat Book 38, Page 26), along a curve to the right having a radius of 20 feet, a central angle of 90 degrees 00 minutes 00 seconds, a curve length of 31.42 feet, a chord bearing and distance of South 03 degrees 51 minutes 57 seconds West, 28.28 feet to a drill hole found at a point of reverse curvature;

Thence, along the easterly line of said 22.608 Acre tract, the westerly line of said Northtowne Boulevard, along a curve to the left having a radius of 360 feet, a central angle of 43 degrees 02 minutes 00 seconds, a curve length of 270.39 feet, a chord bearing and distance of South 27 degrees 20 minutes 57 seconds West, 264.08 feet to an iron pipe found at a point of tangency;

Thence, along the easterly line of said 22.608 Acre tract, the westerly line of said Northtowne Boulevard, South 05 degrees 49 minutes 57 seconds West, 210.11 feet to an iron pipe set at the northeasterly corner of said 0.0327 Acre tract;

Thence, across said 22.608 Acre tract, along the westerly line of said 0.0327 Acre tract, South 16 degree 36 minutes 32 seconds West, 106.97 feet to an iron pipe set;

Thence, across said 22.608 Acre tract, along the westerly line of said 0.0327 Acre tract, South 5 degrees 49 minutes 57 seconds West, 18.74 feet to a mag nail set at the southwest corner of said 0.0327 Acre tract, also being on the northerly line of said 1.248 Acre tract;

Thence, along the southerly line of said 22.608 Acre tract, along part of the northerly line of said 1.248 Acre tract, North 84 degrees 09 minutes 58 seconds West, 466.64 feet to an iron pipe found;

Thence, along an easterly line of said 22.608 Acre tract, a westerly line of said 1,248 Acre tract, South 6 degrees 04 minutes 24 seconds West, 182.18 feet to a point (being referenced by found mag nails South 6 degrees 04 minutes 24 seconds West, 2.00 feet and South 84 degrees 26 minutes 50 seconds East, 2.00 feet therefrom), said point being 147 feet northerly at right angles from the centerline of said Morse Road;

Thence, along the southerly line of said 22.608 Acre tract, along a northerly line of said 1.248 Acre tract, (being 147 feet northerly of and parallel with the centerline of said Morse Road), North, 84 degrees 26 minutes 50 seconds West, 688.42 feet to the place of beginning CONTAINING 22.575 ACRES, excepting therefrom the 0.753 acres described above (Subarea 1), subject however to all legal highways, easements, leases and restrictions of record and of records in the respective utility offices.

**Parcel No:** 010-245370

**To Rezone From:** CPD, Commercial Planned Development District

**To:** CPD, Commercial Planned Development District

**SECTION 2.** That a Height District of thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District on this property.

**SECTION 3.** That the Director of the Department of Building and Zoning Services be, and is hereby authorized and directed to make the said change on the said original zoning map and shall register a copy of the approved CPD, Commercial Planned Development District and Application among the records of the Department of Building and Zoning Services as required by Section 3311.12 of the Columbus City Codes; said plans being titled, “**RALLY’S HAMBURGERS SITE PLAN**,” and “**MORSE CENTRE SITE PLAN**,” both dated September 21, 2017 and signed by James Maniance, Attorney for the Applicant on October 10, 2017, and text titled, “**COMMERCIAL PLANNED DEVELOPMENT TEXT**,” dated September 7, 2017, and signed by Michael Hurwitz, Owner, and Matthew Keys, Applicant, on October 10, 2017, and the text reading as follows:

### **COMMERCIAL PLANNED DEVELOPMENT TEXT**

**PROPOSED DISTRICT: CPD - Commercial Planned Development**

**PROPERTY ADDRESS: 2100 Morse Road**

**OWNERS: MC-NC, LLC (Subarea 2) and MC-NC Holdings, LLC (Subarea 1)**

**APPLICANT: Checkers Drive-In Restaurants**

**DATE OF TEXT: September 7, 2017**

**APPLICATION NUMBER: Z17-023**

**I. INTRODUCTION:** The applicant seeks to permit the operation of a fast food restaurant in Subarea 1, a parcel which did not exist and was not contemplated during the last rezoning of combined Subareas 1 and 2, a Shopping Center (App. No. Z05-002, the “Prior Rezoning”). Applicant further wishes to preserve and update the legitimization of all site conditions of Subarea 2 which were legitimized in the Prior Rezoning.

To the extent not expressly altered in this Application, the terms of the Prior Rezoning are not amended and are in full force and effect and are continued in this text.

### **II. SUBAREA 1 - 0.753 ACRES**

**1. PERMITTED USES:** The following uses shall be permitted within Subarea 1: those uses listed in Chapter 3356, C-4, Commercial District and the following permitted use in Chapter 3356, C-5, Commercial District, a Drive-In Restaurant. However, the following uses shall be prohibited:

Animal Shelter  
Bars, Cabarets and Nightclubs  
Billboards and other off-premises signs (§3378.03(A))  
Blood and Organ Banks  
Check Cashing and Loans  
Halfway House  
Missions/Temporary Shelters  
Monopole Telecommunications Antennas  
Motorcycle, Boat, and Other Motor Vehicle Dealers (not including new car dealers)  
Pawn Brokers  
Truck, Utility Trailer, and RV (Recreational Vehicle) Sales, Rental and Leasing  
Used automobile sales, unless associated with a new automobile dealership

**2. DEVELOPMENT STANDARDS:** Except as otherwise noted herein the applicable Development Standards of Chapter 3356, C-4, Commercial District and Chapter 3372 as it applies to the Regional Commercial Overlay shall apply to Subarea 1.

A. Density, Height, Lot and/or Setback Commitments. The minimum building setback line from the Morse Road right-of-way shall be no less than fifty (50) feet.

B. Access, Loading, Parking and/or Traffic Related Commitments. Site access and curb cut locations shall be as shown on the Site Plan unless otherwise approved by the Department of Public Service, Division of Traffic Management.

C. Buffering, Landscaping, Open Space and/or Screening Commitments. Landscaping shall be as shown on the Site Plan.

D. Dumpsters, Lighting, Outdoor Display Areas and/or other Environmental Commitments. N/A

E. Graphics and Signage Commitments. All signage shall conform to the Columbus City Code as it applies to the C-4, Commerce District and the Regional Commercial Overlay, or a Graphics Plan shall be submitted for approval by the Columbus Graphics Commission.

F. Miscellaneous Commitments. The Subject Site shall be developed in accordance with the Rally's Hamburgers Site Plan. The Site Plan may be slightly adjusted to reflect engineering, topographical or other site data developed at the time of development and engineering plans are completed. Any such adjustment to the Site Plan shall be subject to review and approval by the Director of the Department of Building and Zoning Services or his/her designee upon submission of the appropriate data regarding the proposed adjustment.

### **III. SUBAREA 2 - 21.822 ACRES**

1. PERMITTED USES: The following uses shall be permitted within Subarea 2: those uses listed in Chapter 3356, C-4, Commercial District. However, the following uses shall be prohibited:

Animal Shelter

Bars, Cabarets and Nightclubs

Billboards and other off-premises signs (§3378.03(A))

Blood and Organ Banks

Halfway House

Missions/Temporary Shelters

Monopole Telecommunications Antennas

Motorcycle, Boat, and Other Motor Vehicle Dealers (not including car rental agencies renting new and late model cars and selling formerly rented cars as an accessory use)

Pawn Brokers (except for the existing Pawn Broker which shall not be replaced after lease expiration or termination)

Truck, Utility Trailer, and RV (Recreational Vehicle) Sales, Rental and Leasing

Used automobile sales, unless associated with a new automobile dealership (not including car rental agencies renting new and late model cars and selling formerly rented cars as an accessory use)

The existing 8 Ball Sports Bar and Grill does not violate the restriction against bars, cabarets and night clubs as presently operated and for so long as it has substantial on-premise food service and does not become a use primarily dispensing or selling alcoholic beverages by the drink for on-site consumption.

2. DEVELOPMENT STANDARDS: Except as otherwise noted herein, the applicable Development Standards of Chapter 3356, C-4, Commercial District shall apply to Subarea 2. The intent of this application is to preserve the legitimization of site conditions in Subarea2 which were legitimized in the Prior Rezoning, recognizing that changes in the Code since 2005 of certain development standards such as parking have eliminated the need for certain variances granted in the Prior Rezoning.

Subarea 2 will comply with the requirements of the Morse Regional Commercial Overlay (Section 3372.870) to the extent that these requirements do not conflict with the Site Plan.

A. Density, Height, Lot and/or Setback Commitments

1. Building Setbacks: Although the minimum building setbacks for each Building are set forth below, it is the intention of this Text that the setbacks for each Building will vary across its facade as shown or indicated on the Site Plan, with the minimum setback set forth below being applicable only for the point or points on the façade that are noted on or otherwise indicated by the Site Plan. The minimum building setbacks are as follows:

a. For Building "A"(as designated on the Site Plan):

- i. 89.3 feet from the north right of way line of Morse Road (that is the service road on the north side of Morse Road); and
- ii. 83.9 feet from the west right of way line of Northtowne Boulevard;

b. For Building "B" (as designated on the Site Plan.):

- i. 4.1 feet from the west right of way line of Northtowne Boulevard; and
- ii. 51.0 feet from the north right of way line of the service road; and

c. For Building "C" (as designated on the Site Plan):

- i. 103.2 feet from the north right of way line of Morse Road (that is, the service road on the north side of Morse Road.

2. Parking Setbacks: Although the minimum parking/maneuvering setbacks are set forth below, it is the intention of this Text that parking/maneuvering setbacks will vary across the frontage of a property as shown or indicated on the Site Plan, with the minimum setback set forth below being applicable only for the point or points along the frontage that are noted on or otherwise indicated by the Site Plan. Those minimum parking/maneuvering setbacks are as follows:

- a. 13.1 feet from the north right of way line of Morse Road (that is, the service road on the north side of Morse Road);
- b. 11 feet from the west right of way line of the north-south leg of the service road;
- c. 10.5 feet from the north right of way line of the east-west leg of the service road between the north-south leg and Northtowne Boulevard; and
- d. 0 feet from the west right of way line of Northtowne Boulevard.

3. There shall be a maximum height limit of 35 feet as measured per Columbus City Code.

B. Access, Loading, Parking and/or Traffic Related Commitments

Site access and curb cut locations shall be as shown on the Site Plan unless otherwise approved by the Department of Public Service, Division of Traffic Management.

The parking spaces and loading spaces requirements for the development shall be per the requirements of Chapter 3312 of the Columbus City Code except as follows:

Initially, no pedestrian walkways will be required pursuant to Section 3312.41(B). At such time as any Building is destroyed or damaged to the extent of 50 percent or more of its value, pedestrian walkways to that Building, or the portion so damaged, as applicable, shall be installed pursuant to Sections 3312.41(B), except that walkways through the parking lot may consist of striped portions of parking lot pavement.

**C. Buffering, Landscaping, Open Space and/or Screening Commitments**

1. The minimum required buffering and landscaping shall be the buffering and landscaping shown on the Site Plan including, without limitation, the fence which was added along a portion of the north property line at the northwest corner of the Subject Site, as shown on the Site Plan.
2. If any Building is destroyed or damaged to the extent of 50 percent or more of its value, then, upon the repair or reconstruction of such damage or destruction, one tree shall be installed in the parking lot for every 20 parking spaces required by code for the space in that Building which is so repaired or reconstructed.

**D. Dumpsters, Lighting, Outdoor Display Areas and/or other Environmental Commitments**

1. All dumpsters will be screened in accordance with the requirements of the Columbus City Code, except that screening for the dumpsters located on the north and west sides of Building "A" shall not be required, except as provided in the next two sentences. If Building "A" is damaged to the extent of 50 percent or more of its value, then all dumpsters serving the damaged portion of that Building shall be screened in accordance with the requirements of the Columbus City Code. If Building "A" is destroyed, then all dumpsters serving that Building shall be screened in accordance with the requirements of the Columbus City Code,
2. Existing parking lot lighting may remain. However, any parking lot lighting fixtures or poles which are replaced, whether voluntarily by the property owner or as a result of a casualty damage or destruction, shall be replaced with cut-off (downlighting) fixtures mounted not more than 28 feet above the surrounding surface of the ground.

Replacement poles shall further be subject to the following conditions:

- a. All lighting poles will be either of wood or black, brown or bronze colored metal construction.
- b. Parking Lot Lighting will be either sodium or mercury vapor and the pole height will not be greater than 30 feet.
- c. Street/Walkway-Pedestrian Lighting will be incandescent lamp or sodium or mercury vapor with a pole height of 16 feet.

**E. Graphics and Signage Commitments.**

All signage shall conform to the Columbus City Code as it applies to the C-4, Commerce District, or a Graphics Plan shall be submitted for approval by the Columbus Graphics Commission.

**F. Miscellaneous Commitments.**

1. The Subject Site has been developed in accordance with the Morse Centre Site Plan. The Site Plan may be slightly adjusted to reflect engineering, topographical or other site data developed at the time of development and engineering plans are completed. Any such adjustment to the Site Plan shall be subject to review and approval by the Director of the Department of Building and Zoning Services or his/her designee upon submission of the appropriate data regarding the proposed adjustment.
2. Requested Variances for Subarea 2
  - A. Variance from Section 3356.11 to reduce the building setbacks as described in Item 2.A.1 of this Text.
  - B. Variance from Sections 3312.25 and 3312.27 to reduce the parking/maneuvering setbacks as described in Item 2.A.2 of this Text.

C. Variance from Section 3312.21 to reduce the required parking lot landscaping to the landscaping required by Items 2.C.1 and 2 of this Text.

D. Variance from Sections 3312.41 A and B to eliminate required pedestrian walkways.

E. Variance from Section 3321.03(c) to permit existing parking lot lighting to remain, subject to the limitation set forth in Item 2.D.2 of this Text.

F. Variance from Section 3312.21(D) to eliminate the parking lot screening requirements along the north of the Subject Site, except where the fence is shown in the northwest corner of the subject property.

G. Variance from Section 3321.01 and 3312.15 to eliminate the requirement that dumpsters located on the north and west sides of Building "A" be screened, subject to the limitation of Item 2.D.1 of this Text.

#### **IV. CPD CRITERIA WHICH APPLIES TO BOTH SUBAREAS 1 and 2:**

##### A. Natural Environment

Subarea 2 is developed substantially in accordance with the Site Plan. Subarea 1 is currently paved parking integrated into the balance of the Shopping Center developed on Subarea 2.

##### B. Existing Land Uses

The property at the southeast corner of the Subject Site, across the service road, is developed with three commercial outparcels (a Wendy's, a Mark Pi's Express and a Jiffy Lube). The properties to the east (across Northtowne Boulevard) and the south (across Morse Road) of the Subject Site are developed with a variety of commercial uses. The property to the north of the Subject Site is developed with what appears to be a vacant office building and single family residential, most of which is buffered by an open space reserve containing a very high earthen mound, the remainder of that residential shall remain buffered by the fence shown on the Site Plan at the northwest corner of the Subject Site. The properties to the west of the Subject Site are developed with commercial uses on the Morse Road frontage with offices behind. The site has access to Northtowne Boulevard and the service road fronting Morse Road.

##### C. Visual Form of the Development

The Subject Site is developed as shown on the Site Plan with 1-story commercial buildings.

##### D. View and Visibility

All of the site access points for the Subject Site have adequate visibility for pedestrian and vehicular safety.

##### E. Proposed Development

No change from the existing development of the subject property is planned.

##### F. Emissions

No adverse effects from emissions shall result from the proposed development.

##### G. Behavior Patterns

Because this rezoning marginally changes the existing development of the Subject Site, the behavior patterns are expected to be the same as existing behavior patterns, and the Subject Site will continue to serve the commercial and restaurant needs of the area.

**SECTION 4.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.