



Legislation Text

File #: 1147-2018, **Version:** 1

Council Variance Application: CV17-083

APPLICANT: Gallas Zadeh Development, LLC; c/o Dave Perry, Agent; David Perry Company, Inc.; 411 East Town Street, 1st Floor; Columbus, OH 43215; and Donald Plank, Atty.; Plank Law Firm; 411 East Town Street, 2nd Floor; Columbus, OH 43215.

PROPOSED USE: Mixed-use development.

NEAR EAST AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The majority of the site is comprised of six parcels developed with mixed-commercial uses and a single-unit dwelling, and the remainder of the site is one undeveloped parcel, all zoned in the ARLD, Residential District. In Subarea A, the applicant is seeking to construct a three-story mixed-used building and to renovate an existing single-story building for a restaurant use. In Subarea B, the applicant is seeking to construct a two-unit dwelling. A Council variance is necessary because there is no zoning district that allows the proposed development without the need for variances. Variances for building height, landscaping and screening, parking setback, minimum numbers of required parking and loading spaces, vision clearance, lot width and area district requirements, basis of computing area, building lines, maximum and minimum side yards, and rear yard are included in the request. While the *Near East Area Plan* (2005) does not include a specific land use recommendation for this location, it does recommend that housing types and density should be consistent with the those found in the surrounding area. The Plan also recognizes that parking needs should be balanced with the goal of preserving the character of the neighborhood and creating a pedestrian-friendly environment. The development would be located in a dense neighborhood accessible by foot, bicycle, and bus, which has ample on-street parking. The Department of Public Service has determined that the request to reduce the number of parking spaces in Subarea A from 157 required to 24 provided is supportable, as the proposal would provide non-residential uses that can be walkable for many residents of the neighborhood. Staff's support of this request is also conditioned on the applicant rezoning the site to an appropriate zoning district and seeking applicable variances within one year of the effective date of this ordinance.

To grant a Variance from the provisions of Sections 3333.02, AR-12, ARLD, and AR-1, apartment residential district use; 3309.14, Height districts; 3312.21(A)(2),(D)(1), Landscaping and screening; 3312.27(3), Parking setback line; 3312.49, Minimum numbers of parking spaces required; 3312.53(B), Minimum number of loading spaces required; 3321.05(A)(1), (B)(1), and (B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.09, Area requirements; 3333.11, ARLD area district requirements; 3333.15(C), Basis of computing area; 3333.18(D), Building lines; 3333.22, Maximum side yard required; 3333.23, Minimum side yard permitted; and 3333.24, Rear yard, of the Columbus City Codes; for the property located at **1117 OAK STREET (43205)**, to allow a mixed-use development with reduced development standards in the ARLD, Apartment Residential District (Council Variance # CV17-083).

WHEREAS, by application # CV17-083, the owner of property at **1117 OAK STREET (43205)**, is requesting a Council Variance to allow a mixed-use development with reduced development standards in the ARLD, Apartment Residential District; and

WHEREAS, Section 3333.02, AR-12, ARLD, and AR-1, apartment residential district use, prohibits commercial uses

and two-unit dwellings on parcels that do not meet the platting and area district exception criteria contained in Section 3333.055 in the ARLD, Apartment Residential District, while the applicant proposes a mixed-use building comprised of 22 apartment units, 4,733± square feet of retail uses, 2,200± square feet of eating and drinking establishment uses, and a 980± square feet seasonal patio, along with a building comprised of 5,624± square feet eating and drinking establishment uses on Subarea A, and a two-unit dwelling on Subarea B; and

WHEREAS, Section 3309.14, Height districts, requires that within a 35-foot height district, no building or structure shall be erected to a height in excess of 35 feet, while the applicant proposes a mixed-use development with an approximate height of 40 feet on Subarea A; and

WHEREAS, Sections 3312.21(A)(2),(D)(1), 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, and requires that screening be provided for parking lots located within 80 feet of residentially zoned property within a landscaped area at least 4 feet in width, while the applicant proposes to reduce the minimum soil area to 98 square feet and the radius to 2.7 feet for one parking lot tree, to reduce a landscaping island with two interior parking lot trees to a minimum soil area of 175 square feet (87.5 square feet per tree), to reduce the east landscaping setback to 1.5 feet, and to permit reduced parking lot screening three feet in height on Subarea A; and

WHEREAS, Section 3312.27(3), Parking setback line, requires the parking setback line to be ten feet, while the applicant proposes a setback of 5.6 feet along Oak Street on Subarea A; and

WHEREAS, Section 3312.49, Minimum numbers of parking spaces required, requires 157 parking spaces for 22 apartment units, 6,933 square feet of commercial space (including retail, office or restaurant uses), 5,624 square feet of restaurant uses, and a 980 square feet seasonal patio, while applicant proposes to provide 24 parking spaces on Subarea A; and

WHEREAS, Section 3312.53(B), Minimum number of loading spaces required, requires a minimum of one loading space, while the applicant proposes zero loading spaces on Subarea A; and

WHEREAS, Sections 3321.05(A)(1),(B)(1), and (B)(2), Vision clearance, requires clear vision triangles of 10 feet at the intersection of a driveway and the street right-of-way, 10 feet at the intersection of a street and alley, and 30 feet at the intersection of two streets, while the applicant proposes on Subarea A to reduce the clear vision triangle at the intersection of South Ohio Avenue and Oak Street to 0 feet, the clear vision triangle at the intersection of the parking lot driveway and Oak Street to 5 feet, and the clear vision triangle at the southwest corner of Subarea A and Elliott Alley to 5 feet; and to reduce the clear vision triangle at the northwest corner of Subarea B and Elliott Alley to 6 feet; and

WHEREAS, Section 3321.07(B), Landscaping, requires one tree per ten residential units, a requirement of three trees for 22 units on Subarea A, while the applicant proposes zero trees; and

WHEREAS, Section 3333.09, Area requirements, requires that no building shall be erected or altered on a lot with a width of less than 50 feet, while the applicant proposes to maintain lot a width of 45± feet on Subarea B; and

WHEREAS, Section 3333.11, ARLD area district requirements, requires 2,500 square feet per dwelling unit on interior lots, while the applicant proposes 1,980± square feet per dwelling unit on Subarea A and 1,263± square feet per dwelling unit on Subarea B; and

WHEREAS, Section 3333.15(C), Basis of computing area, limits buildings from occupying more than 50 percent of the lot area, while the applicant proposes an increased maximum lot coverage of 60 percent on Subarea A and 72 percent on Subarea B; and

WHEREAS, Section 3333.18(D), Building lines, requires a building line of no less than 10 feet along Oak Street and South Ohio Avenue, while the applicant proposes reduced building lines of 2 feet along Oak Street and zero feet along

South Ohio Avenue on Subarea A, and 4 feet along South Ohio Avenue on Subarea B; and

WHEREAS, Section 3333.22, Maximum side yard required, requires that the sum of the widths of each side yard shall equal or exceed 20% of the width of the lot, while the applicant proposes a maximum side yard of 2± feet on Subarea A where 16 feet is required; and

WHEREAS, Section 3333.23, Minimum side yard permitted, requires a minimum side yard of five feet, while the applicant proposes to reduce the minimum side yard to zero feet on the south side of Subarea A, and to four feet on the north side of Subarea B; 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 25 percent of the total lot area, while the applicant proposes no rear yard on Subarea B; and

WHEREAS, the Near East Area Commission recommends approval; and

WHEREAS, City Departments recommend approval because the requested Council variance to allow a mixed-use development will provide non-residential uses that can be walkable for many residents of the neighborhood that is consistent with the housing types and densities found in the area; 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 **1117 OAK STREET (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 3333.02, AR-12, ARLD, and AR-1, apartment residential district use; 3309.14, Height districts; 3312.21(A)(2),(D)(1), Landscaping and screening; 3312.27(3), Parking setback line; 3312.49, Minimum numbers of parking spaces required; 3312.53(B), Minimum number of loading spaces required; 3321.05(A)(1),(B)(1), and (B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.09, Area requirements; 3333.11, ARLD area district requirements; 3333.15(C), Basis of computing area; 3333.18(D), Building lines; 3333.22, Maximum side yard required; 3333.23, Minimum side yard permitted; and 3333.24, Rear yard, of the Columbus City Codes; for the property located at **1117 OAK STREET (43205)**, insofar as said sections prohibit a mixed-use development on Subarea A and a two-unit dwelling on Subarea B in the ARLD, Apartment Residential District, with an increased building height from 35 feet to 40 feet on Subarea A; reduced minimum soil area from 145 square feet to 98 square feet for one tree and 87.5 square feet for two trees, reduced screening height from four feet to three feet, and reduced landscaping radius from 4 feet to 2.7 feet for one tree and 1.5 feet for two trees in Subarea A; a parking setback reduction from 10 feet to 5.6 feet on Subarea A; a reduction in the required minimum number of parking spaces from 157 to 24 spaces on Subarea A; a loading space reduction from one to zero loading spaces on Subarea A; a reduced clear vision triangle at the intersection of South Ohio Avenue and Oak Street from 30 feet to 0 feet on Subarea A, reduced clear vision triangles at the intersection of the parking lot driveway and Oak Street from 10 feet to 5 feet, and at the southwest corner of Subarea A and Elliott Alley from 10 feet to 5 feet; a reduced clear vision triangle at the northwest corner of Subarea B and Elliott Alley from 10 feet to 6 feet; a reduction in shade trees planted on Subarea A from three to zero; reduced lot width from 50

feet to 45± feet on Subarea B; reduced lot area per dwelling unit of 1,980± square feet on Subarea A and 1,263± square feet on Subarea B; an increased maximum lot coverage from 50% to 60% on Subarea A and to 72% on Subarea B; reduced building lines from 10 feet to 2 feet along Oak Street, and to 0 feet along South Ohio Avenue on Subarea A and to 4 feet along South Ohio Avenue on Subarea B; a reduced maximum side yard from 16 feet to 2 feet on Subarea A; a reduced minimum side yard from 5 feet to zero feet on the south side of Subarea A, and to 4 feet on the north side of Subarea B; and a reduced rear yard from 25 percent to zero percent on Subarea B; said property being more particularly described as follows:

1117 OAK STREET (43205), being 0.65± acres located at the northeast and northwest corners of Elliot Street and Oak Street, and being more particularly described as follows:

SUBAREA A
0.59+/- Acre

Situated in the State of Ohio, County of Franklin, City of Columbus, being in Township 5, Range 22, Refugee Lands and being 0.59+/- acres, said 0.59+/- acres being all of Lots 215 through 219, inclusive, of the Hoffman & McGrew's Second Addition of record in Plat Book 2, Page 200, said 0.59+/- acres also being Parcel II, Parcel III, Parcel IV, Parcel V and Parcel VI as described in the deed to S&S Meat Purveyors, Inc. of record in Official Record 22198, Page 113 and Parcel VII as described in the deed to Oak Grocery, LLC of record in Instrument No. 200604210075201, more particularly described as follows;

Beginning at the northwesterly corner of said Lot 219, said corner also being the northwesterly corner of said Parcel VII and the intersection of the easterly right-of-way line of Ohio Avenue (60') and the southerly right-of-way line of Oak Street (50');

Thence S 86° 44' 05" E, with the northerly lines of said Lots 219, 218, 217, 216 and 215, with the northerly lines of said Parcel VII, Parcel V, Parcel IV, Parcel III and Parcel II and with the southerly right-of-way line of Oak Street (50'), 186.65 feet +/- to the northeasterly corner of said Lot 215 and Parcel II, said corner also being the northwesterly corner of Lot 214 of said subdivision;

Thence S 03° 45' 07" W, with the easterly line of said Lot 215 and Parcel II and with the westerly line of said Lot 214, 137.00 feet +/- to the southeasterly corner of said Lot 215 and Parcel II, the southwesterly corner of said Lot 214 and in the northerly line of a 16' Alley as dedicated upon said record plat;

Thence N 86° 44' 05" W, with the southerly lines of said Lots 215 through 219, inclusive, with the southerly lines of said Parcel II, Parcel III, Parcel IV and Parcel VI and with the northerly line of said 16' Alley, 186.65 feet +/- to the southwesterly corner of said Lot 219 and said Parcel VI, said corner also being the intersection of the northerly right-of-way line of said 16' Alley and the easterly right-of-way line of said Ohio Avenue (60');

Thence N 03° 45' 07" E, with the westerly line of said Lot 219, the westerly line of said Parcel VI, the westerly line of said Parcel VII and the easterly right-of-way line of said Ohio Avenue (60'), 137.00 feet +/- to the True Point of Beginning and containing 0.59+/- acre more or less.

The above description was prepared by Advanced Civil Design Inc. on 12/21/2017 and is based on existing County Auditor records, County Recorder records and Franklin County GIS.

All references used in this description can be found at the Recorder's Office Franklin County Ohio.

SUBAREA B
0.06+/- Acre

Situated in the State of Ohio, County of Franklin, City of Columbus, being in Township 5, Range 22, Refugee Lands and

being 0.06+/- acres, said 0.06+/- acres being part of Lots 190 and 191, of the Hoffman & McGrew's Second Addition of record in Plat Book 2, Page 200, said 0.06+/- acres also being all of Parcel I as described in the deed to S&S Meat Purveyors, Inc. of record in Official Record 22198, Page I13 and more particularly described as follows;

Beginning at the northwesterly corner of said Lot 190, said corner also being the northwesterly corner of said Parcel I and the intersection of the easterly right-of-way line of Ohio Avenue (60') and the northerly right-of-way line of a 16' Alley as dedicated upon said record plat;

Thence S 86° 44' 05" E, with the northerly line of said Lots 190, partially with the northerly line of said Lot 191, with the northerly line of said Parcel I and with the southerly right-of-way line of said 16' Alley, 56.00 feet +/- to the northeasterly corner of said Parcel I;

Thence S 03° 45' 07" W, with the easterly line of said Parcel I and across said Lot 191, 45.00 feet +/- to the southeasterly corner of said Parcel I;

Thence N 86° 44' 05" W, with the southerly line of said Parcel I and across said Lots 191 and 190, 56.00 feet +/- to the southwesterly corner of said Parcel I, said corner also being in the easterly right-of-way line of said Ohio Avenue (60');

Thence N 03° 45' 07" E, with the westerly line of said Parcel I and the easterly right-of-way line of said Ohio Avenue (60'), 45.00 feet +/- to the True Point of Beginning and containing 0.06+/- acre more or less.

The above description was prepared by Advanced Civil Design Inc. on 12/21/2017 and is based on existing County Auditor records, County Recorder records and Franklin County GIS.

All references used in this description can be found at the Recorder's Office Franklin County Ohio.

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 as shown on the submitted site plan, or those uses permitted in the ARLD, Apartment Residential District. The proposed square footage of uses and number of units on Subarea A may change subject to the minimum number of required parking spaces not exceeding 157 and the number of provided spaces totaling 24.

SECTION 3. That this ordinance is further conditioned on the Subject Site being developed in general conformance with the site plan titled "**ZONING VARIANCE PLAN FOR THE GEMMA**," dated March 22, 2018 and signed by Dave Perry, Agent for the Applicant, and 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 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 upon the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.

SECTION 5. That this ordinance is further conditioned on the applicant or owner filing an application to rezone this property to an appropriate zoning district along with a concurrent Council variance (if applicable) for reduced development standards within one year of the effective date of this ordinance.

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