



Legislation Text

File #: 2758-2018, **Version:** 1

Council Variance Application: CV17-034

APPLICANT: Perry Street, LLC; c/o David B. Perry, Agent; David Perry Company, Inc.; 411 East Town Street, First Floor; Columbus, OH 43215; and Joseph M. Reidy, Atty., Wagenbrenner Development; 842 North Fourth Street, Suite 200; Columbus, OH 43215.

PROPOSED USE: Mixed-use development.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The site consists of two parcels. The western parcel is zoned in the C-2, Commercial, C-4, Commercial, and M, Manufacturing districts and is developed with surface parking lots, a warehouse building, and a child daycare center. The eastern parcel is undeveloped and zoned in the P-1, Private Parking District. The applicant proposes a mixed-use development consisting of a 160-room hotel (Subarea A), senior housing/assisted living facility containing a maximum of 200 units (Subarea B), commercial uses including retail uses, a health and exercise facility, an eating and drinking establishment with accessory outdoor patio, 355 apartment units, and structured parking containing 470 spaces (Subarea C), 50 townhouse-style residential units (Subarea D), 58 detached single-unit dwellings (Subareas E and G), and 6± acres of open space to be dedicated to the City of Columbus (Subarea F). A Council variance is required because ground floor residential uses are not permitted in any of the existing zoning districts. Variances for building height, building and parking setbacks, vision clearance, landscaping and screening, and for a temporary parking lot are included in the request. Additionally, a parking space reduction of 293 required parking spaces over Subareas A, B, and C is incorporated into the proposal. This ordinance is conditioned on a future rezoning to the appropriate districts and a concurrent Council variance for reduced development standards. The site is within the boundaries of the *Harrison West Plan* (2005), which recommends Battelle-related, parkland acquisition, greenspace/parkland, and Olentangy Multi-Use Trail land uses at this location. Staff supports the mixed-use development because it is consistent with the development pattern of the neighborhood and provides open space along the Olentangy River. The applicant has addressed Planning Division's requests for a stronger streetscape and pedestrian interface along West Fifth Avenue by incorporating conditions for additional development standards into the proposal.

To grant a Variance from the provisions of Sections 3353.03, Permitted uses; 3363.01, M-manufacturing districts; 3371.01, P-1, private parking district; 3371.01(C), P-1, private parking district; 3309.14(A), Height districts; 3312.21(A-E), Landscaping and screening; 3312.27, Parking setback line; 3312.39, Striping and marking; 3312.43, Required surface for parking; 3312.49(A)(B), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3321.05(B)(1), Vision clearance; 3353.09, C-2 district setback lines; 3363.24, Building lines in an M-manufacturing district; and 3371.02, Building lines in residential and apartment residential districts, of the Columbus City Codes; for the property located at **651 WEST FIFTH AVENUE (43201)**, to permit mixed-use development with reduced development standards in the C-2, Commercial, C-4, Commercial, M, Manufacturing, and P-1, Private Parking districts (Council Variance # CV17-034).

WHEREAS, by application #CV17-034, the owner of the property at **651 WEST FIFTH AVENUE (43201)**, is requesting a Variance to permit mixed-use development with reduced development standards in the C-2, Commercial, C-4, Commercial, M, Manufacturing, and P-1, Private Parking districts; and

WHEREAS, Section 3353.03, Permitted uses, permits only certain commercial uses with residential uses above, while

the applicant proposes a 7,100± square foot health and exercise facility, a 6,400± square foot eating and drinking establishment with a 900± square foot accessory outdoor patio, and retail uses (Subarea C), a 470-space parking structure utilized for both commercial and residential parking (Subarea C), 431 multi-unit dwellings (Subareas C and D), and 26 detached single-unit dwellings (Subarea E), as shown on the submitted site plan; and

WHEREAS, Section 3363.01, M-manufacturing districts, prohibits senior housing facilities, while the applicant proposes a senior housing/assisted living facility containing a maximum of 200 units (Subarea B), as shown on the submitted site plan; and

WHEREAS, Section 3371.01, P-1, private parking district, prohibits residential uses, while the applicant proposes 16 detached single-unit dwellings, all with detached garages (Subarea G), as shown on the submitted site plan; and

WHEREAS, Section 3371.01(C), P-1, private parking district, prohibits buildings larger than 50 square feet in area and 15 feet in height, while the applicant proposes detached single-unit dwellings 40 feet in height and larger than 50 square feet, with detached garages 18 feet in height and larger than 50 square feet in (Subarea G); and

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 35 foot height district to 35 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes building height maximums, by subarea, as follows: Subarea A: 80 feet; Subarea B and C: 70 feet; Subarea D: 60 feet; and Subareas E and G: 40 feet; and

WHEREAS, Section 3312.21(A), Landscaping and screening, requires 3 shade trees for the proposed surface parking containing up to 24 spaces in Subarea C, while the applicant proposes providing 3 shade tree which may be on the perimeter of the parking lot rather than the interior; and

WHEREAS, Section 3312.27, Parking setback line, requires the parking setback line to be 10 feet along West Fifth Avenue (Subarea A), while the applicant proposes a reduced parking setback line of 5 feet; and

WHEREAS, Section 3312.49(A), Minimum number of parking spaces required, requires bicycle parking at various ratios depending on use, while the applicant proposes the code-required bicycle parking for Subareas B, C, and D, but not necessarily located on the same parcel as the uses within Subareas B, C, and D; and

WHEREAS, Section 3312.49(B), Minimum number of parking spaces required, requires off-street parking at various ratios depending on use, while the applicant proposes to reduce the required parking in Subarea A from 160 to 120 spaces, in Subarea B from 225 spaces to 137 spaces, and in Subarea C from 654 spaces to 489 spaces, as itemized in the Parking Data Table shown on the submitted site plan; and

WHEREAS, Section 3312.53, Minimum number of loading spaces required, requires a minimum of 3 loading spaces based on the proposed uses in Subarea A, B and C, while the applicant proposes no loading spaces; and

WHEREAS, Section 3321.05(B)(1), Vision clearance, requires a 10 foot clear vision triangle at the southwest corner of West Fifth Avenue and the unnamed alley on the east side of Subarea G, while the applicant proposes a reduced clear vision triangle of 7 feet, as shown on the submitted site plan; and

WHEREAS, Section 3353.09, C-2 district setback lines, requires a building setback line of 60 feet along West Fifth Avenue for Subareas B and C, and a building setback line of 25 feet along Perry Street for Subareas C, D, and E, while the applicant proposes reduced building setback lines of 15 feet for Subareas B and C, and 5 feet for Subareas C, D, and E, as shown on the submitted site plan; and

WHEREAS, Section 3363.24, Building lines in an M-manufacturing district, requires a building setback line of 60 feet along West Fifth Avenue for Subarea B, while the applicant proposes a reduced building setback line of 15 feet for Subarea B, as shown on the submitted site plan; and

WHEREAS, Section 3371.02, Building lines in residential and apartment residential districts, requires a building setback line of 16 feet along West Fifth Avenue and 10 feet along Perry Street for Subarea G, while the applicant proposes reduced building setback lines of 10 feet and 2 feet respectively, as shown on the submitted site plan; and

WHEREAS, the applicant intends to develop a temporary accessory parking lot within the area of Subareas A, B, and C during construction of the site, which shall be removed prior to or at completion of site development, and which temporarily requires variances from the following development standards:

1. Section 3312.21(A-E), Landscaping and Screening, to not provide code required interior parking lot landscaping and to not provide headlight screening along West Fifth Street for a temporary parking lot located with Subareas A, B, and C; and,
2. Section 3312.39, Striping and marking, requires parking spaces to be striped, while the applicant proposes to use parking blocks, wire with numbered tags or comparable parking space delineation for a temporary parking lot located within Subareas A, B, and C; and
3. Section 3312.43, Surface, requires the surface of any parking area to be an approved hard surface other than gravel or loose fill, while the applicant proposes crushed asphalt or gravel surface for a temporary parking lot located within Subareas A, B, and C; and

WHEREAS, City Departments recommend approval because the mixed-use development is consistent with the development pattern of the neighborhood and provides open space along the Olentangy River. The applicant has addressed Planning Division's requests for a stronger streetscape and pedestrian interface along West Fifth Avenue by incorporating conditions for additional development standards into the proposal; and

WHEREAS, said ordinance requires separate submission for all applicable permits and Certificate 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 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 **651 WEST FIFTH AVENUE (43201)**, in using said property as desired; now, therefore:

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

SECTION 1. That a variance is hereby granted from the provisions of Sections 3353.03, Permitted uses; 3363.01, M-manufacturing districts; 3371.01, P-1, private parking district; 3371.01(C), P-1, private parking district; 3309.14(A), Height districts; 3312.21(A-E), Landscaping and screening; 3312.27, Parking setback line; 3312.39, Striping and marking; 3312.43, Required surface for parking; 3312.49(A)(B), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3321.05(B)(1), Vision clearance; 3353.09, C-2 district setback lines; 3363.24, Building lines in an M-manufacturing district; and 3371.02, Building lines in residential and apartment residential districts, of the Columbus City Codes; for the property located at **651 WEST FIFTH AVENUE (43201)**, insofar as said sections prohibit health and exercise facilities, eating and drinking establishments, retail uses, parking structures, and ground floor residential uses within the C-2, Commercial District; a senior housing/assisted living facility in the M, Manufacturing District; residential uses in the P-1, Private Parking District with buildings larger than 50 square feet and increased building heights to 40 feet for dwellings and 18 feet for private garages in Subarea G; increased

building height maximums of 80 feet for Subarea A, 70 feet for Subareas B and C, 60 feet for Subarea D, and 40 feet for Subareas E, and G; required parking lot trees for the surface parking in Subarea C, but located in the perimeter of the lot; reduced parking setback line from 10 feet to 5 feet along West Fifth Avenue in Subarea A; code required bicycle parking provided but not necessarily on the same parcel as the uses within Subareas B, C, and D; reduced required parking in Subarea A from 160 to 120 spaces, in Subarea B from 225 spaces to 137 spaces, and in Subarea C from 654 spaces to 489 spaces; reduced required loading spaces from 3 to 0 loading spaces; reduced clear vision triangle from 10 feet to 7 feet at the southeast corner of West Fifth Avenue and the unnamed alley on the eastern side of Subarea G; reduced building setback lines in the C-2, Commercial District from 60 feet to 15 feet along West Fifth Avenue in Subareas B and C, and from 25 feet to 5 feet along Perry Street in Subareas C, D, and E; reduced building setback line in the M, Manufacturing District from 60 feet to 15 feet along West Fifth Avenue in Subarea B; and a reduced building setback line in the P-1, Private Parking District from 16 feet to 10 feet along West Fifth Avenue, and from 10 feet to 2 feet along Perry Street in Subarea G; and a temporary parking lot during construction of the site that does not meet any of the landscaping and screening requirements for a parking lot, with parking blocks and wire with numbered tags or comparable parking space delineation instead of striping and marking, and a crushed asphalt or gravel surface; said property being more particularly described as follows:

651 WEST FIFTH AVENUE (43201), being 21.1± acres located at the southeast and southwest corners of West Fifth Avenue and Perry Street, and being more particularly described as follows:

ZONING DESCRIPTION

19.9 +/- ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, being a part of Section 6, Township 5, Range 22, Refugee Lands, and being all of Lot Nos. 1 through 56 of Markland Addition of record in Plat Book 4, Page 376 and all of Lot Nos. 31 through 36 and 57 through 81 of Markland Addition Extension of record in Plat Book 7, Page 70 conveyed to Battelle Memorial Institute in Deed Book 3791, Page 543, Deed Book 2669, Page 316, Deed Book 2699, Page 423, Deed Book 2686, Page 462, Deed Book 2778, Page 146, Deed Book 2722, Page 676, Deed Book 2797, Page 20, Deed Book 2768, Page 47, Deed Book 3784, Page 184, Deed Book 2668, Page 168, Deed Book 2646, Page 326, Deed Book 2684, Page 498, Deed Book 2852, Page 106, Deed Book 2691, Page 27, Deed Book 2758, Page 102, Deed Book 3795, Page 651, Deed Book 2819, Page 615, Official Record Volume 693 F03, Deed Book 2930, Page 483, Deed Book 2903, Page 665, Deed Book 2567, Page 419, Deed Book 3752, Page 365, Deed Book 2798, Page 239, Deed Book 3702, Page 841, Deed Book 2711, Page 166, Deed Book 2782, Page 273, Deed Book 2870, Page 34, Deed Book 2775, Page 314, Deed Book 3581, Page 655, Deed Book 3610, Page 348, Deed Book 2845, Page 28, Deed Book 3773, Page 597, Deed Book 3202, Page 671, Deed Book 3768, Page 423, Deed Book 2739, Page 591, Deed Book 3128, Page 591, Deed Book 3744, Page 797, Deed Book 2788, Page 400, Deed Book 2662, Page 595, Deed Book 2877, Page 159, Deed Book 2645, Page 71, Deed Book 2666, Page 519, Deed Book 2693, Page 567, Deed Book 2680, Page 560, Deed Book 2758, Page 557, Deed Book 3581, Page 658, Deed Book 2693, Page 176, Deed Book 2735, Page 482, Deed Book 2514, Page 276, Deed Book 3776, Page 807, Deed Book 2811, Page 78, Deed Book 2491, Page 295, Deed Book 2481, Page 601, Deed Book 2831, Page 664, Official Record Volume 8742 F05, Deed Book 2679, Page 128, Deed Book 2639, Page 213, Deed Book 2666, Page 517, Deed Book 3791, Page 544, Deed Book 2718, Page 539, Deed Book 2792, Page 538, Deed Book 2629, Page 654, Deed Book 2699, Page 161, Deed Book 2804, Page 516, Deed Book 2598, Page 566, Deed Book 2555, Page 696, Deed Book 2869, Page 404, and Deed Book 2987, Page 134, all of a 20 foot right-of-way and 60 foot right-of-way vacated in Ordinance Nos. 2406-81, all of a tract of land conveyed to Battelle Memorial Institute as described in Official Record Volume 583 B15, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 2765, Page 212, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 3581, Page 658, all of a tract of land conveyed to Battelle Memorial Institute as described in Official Record Volume 941 E18, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 3072, Page 443, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 2849, Page 421, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 2850, Page 337, all of a tract of land conveyed to Battelle Memorial Institute as described in Deed Book 3072, Page 445, all of tracts of land conveyed to Battelle Memorial Institute as described in Deed Book 653, Page 85, all of a tract of land conveyed to Columbia Gas of Ohio, Inc. and described in Deed Book 2542, Page 578, Deed Book 1004, Page 484, and Miscellaneous Record Volume 6, Page 375, all of tracts of

land conveyed to City of Columbus, Ohio as described in Deed Book 653, Page 85, and all of a vacated 60 foot right-of-way, a vacated 20 foot alley, vacated Hill Avenue, and a vacated 20 foot alley conveyed to City of Columbus, Ohio as described in Ordinance No. 1973-96, all records being of the Recorder's Office, Franklin County, Ohio and being more particularly bounded and described as follows:

BEGINNING at the intersection of the southerly right-of-way line of W. Fifth Avenue (60' Width) and the westerly right-of-way line of Perry Street (60' Width), and being the northeast corner of said Lot No. 48 of The Markland Addition;

Thence along the westerly right-of-way line of Perry Street, the east line of said Lot No. 48, the east line of said 20 foot right-of-way vacated in Ordinance No. 2406-81, the east line of said Lot No. 37 of Markland Addition, the east line of said 60 foot right-of-way vacated in Ordinance No. 2406-81, the east lines of said Lot Nos. 25 and 36 of Markland Addition, the east line of said 60 foot right-of-way vacated in Ordinance No. 1973-96, the east line of said Lot No. 24 of Markland Addition, the east line of said 20 foot alley vacated in Ordinance No. 1973-96, the east line of said Lot No. 13 of Markland Addition, the east line of said Hill Avenue (60' Width) vacated in Ordinance No. 1973-96, the east line of said Lot No. 12 of Markland Addition, the east line of said 20 foot alley vacated in Ordinance No. 1973-96, and the east line of said Lot No. 1 of Markland Addition, South 03 degrees 03 minutes 08 seconds West, 1252.49 feet to the southeast corner of said Lot No. 1 and being the intersection of the westerly right-of-way line of Perry Street and the northerly right-of-way line of W. Third Avenue (60' Width);

Thence along the northerly right-of-way line of W. Third Avenue, the south lines of said Lot Nos. 1 through 6, and 49 through 52 of Markland Addition, North 86 degrees 24 minutes 21 seconds West, 400.00 feet to the southwest corner of said Lot No. 52;

Thence along the west line of said Lot No. 52, the west line of said 20 foot alley vacated by Ordinance No. 1973-96, the west line of said Lot No. 53 of Markland Addition, and the west line of said Hill Avenue vacated in Ordinance No. 1973-96, North 03 degrees 02 minutes 57 seconds East, 336.32 feet to the northeast corner of said vacated Hill Avenue;

Thence, North 86 degrees 25 minutes 29 seconds West, 115.09 feet to the centerline of the Olentangy River;

Thence along the centerline of the Olentangy River, the following four (4) courses:

1. North 03 degrees 59 minutes 23 seconds West, 85.52 feet;
2. North 06 degrees 49 minutes 47 seconds West, 64.27 feet;
3. North 13 degrees 07 minutes 37 seconds West, 86.62 feet;
4. North 34 degrees 23 minutes 10 seconds West, 96.13 feet;

Thence, South 86 degrees 24 minutes 21 seconds East, 29.20 feet;

Thence, North 03 degrees 03 minutes 09 seconds East, 149.75 feet;

Thence, North 52 degrees 23 minutes 25 seconds West, 42.44 feet to a point of curvature;

Thence with a curve to the left having a radius of 1270.00 feet, a central angle of 25 degrees 18 minutes 47 seconds, an arc length of 561.08 feet, and a chord which bears North 65 degrees 02 minutes 48 seconds, 556.53 feet;

Thence, North 77 degrees 49 minutes 35 seconds West, 89.05 feet to a point of curvature;

Thence with a curve to the right having a radius of 60.00 feet, a central angle of 40 degrees 20 minutes 44 seconds, an arc length of 42.25 feet, and a chord which bears North 57 degrees 31 minutes 04 seconds, 41.38 feet;

Thence, North 37 degrees 20 minutes 23 seconds West, 84.74 feet to a point of curvature;

Thence with a curve to the right having a radius of 60.00 feet, a central angle of 40 degrees 19 minutes 36 seconds, an arc length of 42.23 feet, and a chord which bears North 17 degrees 09 minutes 44 seconds, 41.36 feet;

Thence, North 03 degrees 02 minutes 42 seconds East, 85.00 feet to the southerly right-of-way line of W. Fifth Avenue;

Thence along the southerly right-of-way line of W. Fifth Avenue, South 86 degrees 56 minutes 05 seconds East, 1334.47 to the **POINT OF BEGINNING, CONTAINING 19.9 ACRES, MORE OR LESS.**

ZONING DESCRIPTION

1.3 +/- ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, being a part of Section 6, Township 5, Range 22, Refugee Lands, and being all of Lot Nos. 1 through 10 of Dennison Park Addition No. 2 of record in Plat Book 4, Page 177, conveyed to Battelle Memorial Institute as described in Deed Book 2725, Page 177, Deed Book 2812, Page 165, Deed Book 2676, Page 44, Deed Book 2699, Page 425, Deed Book 3076, Page 110, Deed Book 3390, Page 405, Deed Book 3702, Page 841, Deed Book 2964, Page 44, Deed Book 3012, Page 575, Deed Book 2700, Page 472, and Deed Book 2868, Page 368, all records being of the Recorder's Office, Franklin County, Ohio:

Known as Address: 651 West Fifth Avenue, Columbus, OH 43201

Parcel Numbers: 010-034881 & 010-053212

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 reflected on the submitted site plan, or those uses permitted in the C-2, Commercial, C-4 Commercial, M, Manufacturing, and P-1, Private Parking districts.

SECTION 3. That this ordinance is further conditioned on the Subject Site being developed in general conformance with the site plan titled "**ZONING SITE PLAN - SHEETS 1 THROUGH 4**," dated September 26, 2018 and signed by David B. Perry, Agent for the Applicant and Joseph M. Reidy, 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 upon the following commitments as requested by the Department of Public Service, Traffic Management Division:

1. At the western site access point to West Fifth Avenue for the hotel site (Subarea A), a westbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.
2. The eastern site access point to West Fifth Avenue for the hotel site (Subarea A) shall be limited to only right-in and right-out turning movements.
3. At the signalized site access point to West Fifth Avenue, the property owner or New Community Authority shall enter into a traffic control devices contract with the City of Columbus.
4. At the intersection of West Fifth Avenue & Perry Street, a northbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.
5. At the intersection of West Third Avenue & Perry Street, an eastbound left turn lane with a minimum length of 110 feet

(includes diverging taper) shall be provided.

6. At the intersection of West Third Avenue & Perry Street, a northbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.

7. At the intersection of West Third Avenue & Perry Street, a southbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.

SECTION 6. That this ordinance is further conditioned upon the following development standards:

1. The senior housing/assisted living building in Subarea B shall include enhanced streetscape/pedestrian interface components through the use of landscaping and/or glazing along the front façade.

2. The parking lot for the hotel development shall comply with the Urban Commercial Overlay screening requirements contained in Section 3372.607.

SECTION 7. That this ordinance is further conditioned on the applicant or property owner submitting an application to rezone this property to the appropriate zoning districts along with a concurrent Council variance (if applicable) for reduced development standards within 3 years of the effective date of this ordinance.

SECTION 8. That this ordinance is further conditioned on the temporary parking lot in Subareas A-C being removed within 30 days from the issuance of the last Certificate of Occupancy for the development in Subareas A-D.

SECTION 9. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.