



## Legislation Text

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**File #:** 1970-2019, **Version:** 2

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### **Council Variance Application: CV18-104**

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

**PROPOSED USE:** Mixed use commercial and apartment residential development.

**NEAR EAST AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The applicant has received a recommendation of approval from the Development Commission for a concurrent rezoning (ORD #1969-2019; Z18-079) to the CPD, Commercial Planned Development and AR-3, Apartment Residential districts which will permit a mixed-use development consisting of retail, office, restaurant, brewery, and outside dining uses in Subarea A (the CPD district) and multi-unit residential development with a maximum of 102 units in Subarea B (the AR-3 district). The requested variance will allow off-site distribution for the proposed brewery in Subarea A, and up to 2,250 square feet of C-3, Commercial District uses in a portion of Subarea B. Standard variances have also been incorporated to increase lot coverage and to reduce parking lot landscaping, maneuvering, vision clearance, setbacks, perimeter yard, and the number of required parking spaces from 162 to 102. The proposal is consistent with the recommendations of the *Near East Area Plan* (2005) which contains criteria to evaluate whether proposed commercial uses are appropriate in residentially-zoned areas, and takes into consideration the restoration of existing contributing buildings when supporting new commercial activities. The Plan also recommends that new housing be compatible with the existing architecture, and that density be consistent with housing types and densities found in the surrounding area. The requested variance would permit a mixed-use development that is consistent with criteria within the *Near East Area Plan* as it relates to rehabilitation of contributing buildings for commercial use, and for compatible housing types, architecture, and density for the proposed residential development. Property within Subarea B and at the southwest corner of Oak Street and Kelton Avenue is subject to Ordinance #1310-2007 (CV07-005), a proposal for a multi-unit residential development that did not materialize, and that ordinance is being repealed.

To grant a Variance from the provisions of Sections 3361.02, Permitted uses; 3333.03, AR-3, apartment residential district use; 3303.01, Letter A (Definitions); 3311.28(b), Requirements; 3312.21(A), Landscaping and screening; 3312.49, Minimum number of parking spaces required; 3321.05(B)(2), Vision clearance; 3333.15(C), Basis of computing area; 3333.18(B), Building lines; and 3333.255, Perimeter yard, of the Columbus City Codes; for the property located at **1600 OAK ST. (43205)**, to permit a mixed-use development with reduced development standards in the CPD, Commercial Planned Development District and AR-3, Apartment Residential District and to repeal Ordinance #1310-2007 (CV07-005), passed September 24, 2007 (Council Variance #CV18-104) **and to declare an emergency.**

**WHEREAS**, by application #CV18-104, the owner of property **1600 OAK ST. (43205)**, is requesting a Council variance to permit a mixed-use development with reduced development standards in the CPD, Commercial Planned Development District and AR-3, Apartment Residential District; and

**WHEREAS**, Section 3361.02, Permitted uses, specifies C-4 district uses and permits a microbrewery for on-site consumption, while the applicant proposes a microbrewery with off-site distribution within Subarea A which the Zoning Code categorizes as a *more objectionable* manufacturing use; and

**WHEREAS**, Section 3333.03, AR-3, apartment residential district use, prohibits commercial uses, while the applicant proposes a maximum of 2,250 square feet of C-3, Commercial District uses in Building A within Subarea B; and

**WHEREAS**, Section 3303.01, Letter A (Definitions), defines an apartment complex as a residential development under one control and consisting of two or more apartment houses, while the applicant proposes that the mixed-use building (Building A) and the apartment house building (Building B) be considered collectively as an apartment complex for the purpose of determining yard requirements in Subarea B; and

**WHEREAS**, Section 3311.28(b), Requirements, requires that more objectionable uses are to be conducted within the M or M-1, Manufacturing districts, and within not less than 600 feet from any residential districts, while the applicant proposes a microbrewery with off-site distribution in the CPD, Commercial Planned Development District within Subarea A which directly abuts residentially-zoned property; and

**WHEREAS**, Section 3312.21(A), Landscaping and screening, requires interior parking lot trees at a rate of one tree per ten parking spaces that contain a minimum soil area radius of four feet per tree dispersed throughout the interior of the parking lot and not in required setback areas, while the applicant proposes to eliminate interior parking lot trees and proposes landscaping on the north side of Building B in Subarea B as shown on the development plan to offset the requirement; and

**WHEREAS**, Section 3312.49, Minimum numbers of parking spaces required, requires one parking space per 250 square feet of retail space, and 1.5 parking spaces per apartment unit for a total of 162 required parking spaces for up to 2,250 square feet of retail space and 102 apartment units in Subarea B, while the applicant proposes 102 parking spaces; and

**WHEREAS**, Section 3321.05(B)(2), Vision clearance, requires a clear vision triangle of 30 feet at street intersections, while the applicant proposes to reduce the 30-foot clear vision triangle at the intersection of Oak Street and Kelton Avenue to 5 feet in 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 55 percent in Subarea B; and

**WHEREAS**, Section 3333.18(B), Building lines, requires a building line of 25 feet along Oak Street and of 30 feet along Kelton Avenue, while the applicant proposes building lines of 5 feet along Oak Street and of 6 feet along Kelton Avenue in Subarea B; and

**WHEREAS**, Section 3333.255, Perimeter yard, requires a minimum perimeter yard of 25 feet, while the applicant proposes a perimeter yard of 2 feet along the east property line and 0 feet along the south property line in Subarea B; and

**WHEREAS**, the Near East Area Commission recommends approval; and

**WHEREAS**, the City Departments recommend approval because the requested variance would permit a mixed-use development that is consistent with criteria within the *Near East Area Plan* as it relates to rehabilitation of contributing buildings for commercial use, and for compatible housing types, architecture, and density for the proposed residential development; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificates of Occupancy for the proposed 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 **1600 OAK ST. (43205)**, in using said property as desired;

**WHEREAS**, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance to begin construction as soon as possible for the immediate preservation of the public peace, property, health and safety; now, therefore:

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

**SECTION 1.** That a Variance from the provisions of Sections 3361.02, Permitted uses; 3333.03, AR-3, apartment residential district use; 3303.01, Letter A (Definitions); 3311.28(b), Requirements; 3312.21(A), Landscaping and screening; 3312.49, Minimum number of parking spaces required; 3321.05(B)(2), Vision clearance; 3333.15(C), Basis of computing area; 3333.18(B), Building lines; and 3333.255, Perimeter yard, of the Columbus City Codes, is hereby granted for the property located at **1600 OAK ST. (43205)**, insofar as said sections prohibit a microbrewery with off-site distribution in the CPD, Commercial Planned Development District (Subarea A) and C-3, Commercial District uses in the AR-3, Apartment Residential District (Subarea B), with a mixed-use building and an apartment house being considered an apartment complex in Subarea B; a reduced distance separation from 600 feet to 0 feet for the microbrewery in Subarea A; no interior parking lot trees in Subarea B; a parking space reduction from 162 to 102 parking spaces in Subarea B; a reduction in the required 30-foot clear vision triangle at the intersection of Oak Street and Kelton Avenue to 5 feet in Subarea B; an increased lot coverage from 50 to 55 percent in Subarea B; reduced building lines from 25 feet to 5 feet along Oak Street and from 30 feet to 6 feet along Kelton Avenue in Subarea B; and a reduced perimeter from 25 feet to of 2 feet along the east property line and 0 feet along the south property line in Subarea B; said property being more particularly described as follows:

**1600 OAK ST. (43205)**, being 4.62± acres located at the northeast and southeast corners of Oak Street and Kelton Avenue, and being more particularly described as follows:

**SUBAREA A**  
**DESCRIPTION OF 3.158 ACRES**  
**TROLLEY BARN**

Situated in the State of Ohio, County of Franklin, City of Columbus, and being all out of a parcel of land conveyed to Minnie M McGee of record in Instrument Number 200307230227093, all references to records being on file in the Office of the Recorder, Franklin County, Ohio, said 3.15773 acre parcel being more fully described herein;

BEGINNING at a mag spike set at the southwest corner of said McGee parcel and the intersection of the south Right of Way line of Oak Street (50 feet) and the east Right of Way line of Kelton Avenue (60 feet);

Thence, North 03°56'09" East, a distance of 226.55 feet, with the west line of said McGee parcel and the east Right of Way of said Kelton Avenue to an iron pin set at the northwest corner of said McGee parcel and also being on the south line of a 15 foot alley as shown on the plat for Maynards Fair Avenue Addition of record in Plat Book 7, Page 157;

Thence, South 86°42'35" East, a distance of 631.80 feet, with the north line of said McGee parcel and the south line of said 15 foot alley to a ¾" iron pin found at the northeast corner of said McGee parcel, and also being on the west line of a 0.0198 acre parcel of land conveyed to Trolley Barn LLC of record in Instrument Number 201408080103726;

Thence, South 03°43'56" West, a distance of 208.63 feet, with the east line of said McGee parcel, the west line of said 0.0198 acre parcel and the west line of Lot 23 of Morrison and Others Subdivision of record in Plat Book 5, Page 257 to a mag spike set at the southeast corner of said McGee parcel, the southwest corner of said Lot 23 and also being on the

north Right of Way line of said Oak Street;

Thence, North 88°19'51" West, a distance of 633.00 feet, with the south line of said McGee parcel and the north Right of Way line of said Oak Street to the TRUE POINT OF BEGINNING, containing 3.158 acres of land, subject to all easements and documents of record. All iron pins set are 5/8" solid rebar, thirty inches in length with yellow plastic cap bearing the initials "CEC INC."

For the purpose of this description a bearing of South 88°19'51" East was held on north Right of Way of said Oak Street, and is based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2011 adjustment). Said bearing was established by Static and RTK GPS Observations, and was determined by using National Geodetic Survey, OPUS-S service. This document is based on a survey completed by or under the supervision of Robert W. Martin in January of the year 2018.

**SUBAREA B**  
**DESCRIPTION OF 1.504 ACRES**  
**CITY HERITAGE**

Situated in the State of Ohio, County of Franklin, City of Columbus, and being all out of a 1.505 acre parcel of land conveyed to City Heritage, LLC of record in Instrument Number 201701170009787, all references to records being on file in the Office of the Recorder, Franklin County, Ohio, said 1.504 acre parcel being more fully described herein;

BEGINNING at an 3/4" iron pin found at the northwest corner of said 1.505 acre parcel and the intersection of the south Right of Way line of Oak Street (50 feet) and the east Right of Way line of Kelton Avenue (60 feet);

Thence, South 88°19'51" East, a distance of 428.46 feet with the north line of said 1.505 acre parcel and the south Right of Way line of said Oak Street to 3/4" iron pipe found at the northeast corner of said 1.505 acre parcel and also being the northwest corner of a 20 foot alley of record in Thomas Millers Heirs Subdivision of record in Plat Book 4, Page 72;

Thence, South 03°53'14" West, a distance of 153.01 feet with the east line of said 1.505 acre parcel and the west line of said 20 foot alley to Mag Spike Set at the south east corner of said 1.505 acre parcel, the southwest corner of said 20 foot alley and also being on the north line of a 20 foot alley as shown on said Thomas Millers Heirs Subdivision, passing a 1/2" rebar found in concrete at a distance of 148.00 feet;

Thence, North 88°19'51" West, a distance of 428.40 feet with the south line of said 1.505 acre parcel and the north line of said 20 foot alley to a Mag Spike Set at the southwest corner of said 1.505 acre parcel and also being on the north line of said Kelton Avenue;

Thence, North 03°51'47" East, a distance of 153.00 feet with the south line of said 1.505 acre parcel and the north line of said Kelton Avenue to the TRUE POINT OF BEGINNING, containing 1.504 acres of land, subject to all easements and documents of record. All iron pins set are 5/8" solid rebar, thirty inches in length with yellow plastic cap bearing the initials "CEC INC."

For the purpose of this description a bearing of South 88°19'51" East was held on south Right of Way of said Oak Street, and is based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2011 adjustment). Said bearing was established by Static and RTK GPS Observations, and was determined by using National Geodetic Survey, OPUS-S service. This document is based on a survey completed by or under the supervision of Robert W. Martin in January of the year 2018.

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a microbrewery with off-site distribution in Subarea A, and up to 2,250 square feet of C-3, Commercial District uses in Subarea B, or those uses permitted in the CPD, Commercial Planned Development District and AR-3, Apartment Residential District established by Ordinance #1969-2019 (Z18-089).

**SECTION 3.** That this ordinance is further conditioned on the Subject Site being developed in general conformance with the site plans titled, “**ZONING SITE PLAN FOR TROLLEY BARN - COVER SHEET,**” and “**ZONING SITE PLAN FOR TROLLEY BARN - SITE LAYOUT AND UTILITY PLAN,**” dated June 26, 2019, and 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 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 on the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed use.

**SECTION 5.** ~~That this ordinance shall take effect and be in force from and after the earliest period allowed by law.~~  
**That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or 10 days after its passage if the Mayor neither approves nor vetoes the same**

**SECTION 6.** That Ordinance #1310-2007 (CV07-005), passed September 24, 2007, be and is hereby repealed.