



Legislation Text

File #: 1597-2022, **Version:** 1

Rezoning Application: Z22-005

APPLICANT: Northstar Realty; c/o Jackson B. Reynolds, III, Atty.; 37 West Broad Street, Suite 460; Columbus, OH 43215

PROPOSED USE: Drive-in business.

DEVELOPMENT COMMISSION RECOMMENDATION: Approval (5-0) on April 14, 2022.

MIDEAST AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The 0.56± acre parcel is developed with a vacant check cashing facility zoned in the C-4, Commercial District. The requested CPD, Commercial Planned Development District will permit a drive-in business for the sale of prepared food and beverages without on-site seating. The site is within the planning area of the *Livingston East Area Plan* (2009) which recommends "Commercial (Community)" for this location. It is also within the Community Commercial Overlay (CCO), and is identified as a primary redevelopment site. Additionally, Board of Zoning Adjustment (BZA) Application #BZA21-004 was approved on April 27, 2021 for variances related to the CCO for a proposed eating and drinking establishment that included a seating area. The project has since been revised to remove the seating area necessitating the rezoning to permit a C-5 district use. The CPD text commits to a site plan and includes development standards addressing setbacks, parking and access, landscaping, building design, and graphics requirements. Modifications to code standards include increasing the maximum building setback from 25 feet to 40 feet, permitting a minimum building width of 19 feet, omitting parking lot landscaping surrounding the lot, allowing a drive aisle in front of the building, and reducing the lot width from 120 feet to 101 feet, and window glass from 40 percent to 35 percent, consistent with the approved BZA variances. Staff notes that the site is limited due to access and cross-access constraints, as well as overall site width that make an overlay-compliant drive-in business not feasible. The CCO modifications are supported and are offset by additional landscaping along the frontage to screen the drive aisle, and parking will be located to the side and rear of the proposed building, consistent with CCO requirements.

To rezone **2127 E. LIVINGSTON AVE. (43209)**, being 0.56± acres located on the south side of East Livingston Avenue, 490± feet west of Sheridan Avenue, **From:** C-4, Commercial District, **To:** CPD, Commercial Planned Development District (Rezoning #Z22-005).

WHEREAS, application #Z22-005 is on file with the Department of Building and Zoning Services requesting rezoning of 0.56± acres from C-4, Commercial District, to CPD, Commercial Planned Development District; and

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

WHEREAS, the Mideast Area 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 land use recommendation of the *Livingston East Area Plan* for

“Commercial (Community)” uses. Community Commercial Overlay (CCO) modifications are supported and are offset by additional landscaping along the frontage to screen the drive aisle, and parking will be located to the side and rear of the proposed building, consistent with CCO requirements; 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 #0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

2127 E. LIVINGSTON AVE. (43209), being 0.56± acres located on the south side of East Livingston Avenue, 490± feet west of Sheridan Avenue, and being more particularly described as follows:

TRACT I:

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 34, Township 5, Range 22, Refugee Lands, and being the same premises conveyed to Front IV, Inc., by deed recorded in Deed Book 3474, Page 859, Recorder's Office, Franklin County, Ohio:

Beginning at an iron pin the westerly right of way of Sheridan Avenue projected southerly to the southerly right of way of Livingston Avenue; thence South 89 deg. 47' West with the southerly right of way line of said Livingston Avenue, a distance of 397 feet to the point of beginning;

Thence South 00 deg. 46' East a distance of 193.52 feet to a point;

Thence South 89 deg. 47' West, a distance of 20.00 feet to a point;

Thence South 00 deg. 46' East, a distance of 55.00 feet to a point;

Thence South 89 deg. 47' 13" West a distance of 82.00 feet to a point;

Thence North 00 deg. 46' West, a distance of 248.51 feet to a point in the southerly right of way of Livingston Avenue;

Thence North 89 deg. 47' East with the southerly right of way of Livingston Avenue, a distance of 102.00 feet to the point of beginning, containing 0.56 acres, more or less.

Subject, however to a non-exclusive easement over the following described portion of the above premises for the purpose of ingress, egress, and parking for the benefit of the premises adjoining the same on the east; no fence barrier or obstruction shall be erected or maintained as to restrict the free flow of vehicular traffic over the easement area to and from the premises adjoining the easement area, unless mutually agreed upon the owners of the premises adjoining the easement area; any owner or owners of the premises adjoining and entitled to use the easement many, at their own expense, improve by paving all or any part of the easement area without securing approval of others entitled to use the same, so long as such improvement works does not unreasonably deny use of the easement area to others entitled to use the same;

Beginning at an iron pin the westerly right of way of Sheridan Avenue projected southerly to the southerly right of way of Livingston Avenue; thence, South 89 deg. 47' West with the southerly right of way of said Livingston Avenue, a distance of 397.00 feet to the true point of beginning;

Thence South 00 deg. 46' East a distance of 193.52 feet to a point;

Thence South 89 deg. 47' West a distance of 20.00 feet to a point;

Thence North 00 deg. 46' West a distance of 193.52 feet to a point;

Thence North 89 deg. 47' East a distance of 20.00 feet to the place of beginning.

And subject however, to a non-exclusive easement over the following described portion of the above premises for the purpose of ingress and egress and parking for the benefit of the premises adjoining the same on the west; no fence barrier or obstruction shall be erected or maintained so as to restrict the free flow of vehicular traffic over the easement area to and from the premises adjoining the easement area, unless mutually agreed upon by the owners of the premises adjoining the easement area; any owner or owners of the premises adjoining and entitled to use the easement may, at their own expense, improve by paving all or any part of the easement area without securing approval of others entitled to use the same, so long as such improvement work does not unreasonably deny use of the easement area to others entitled to use the same;

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 34, Township 5, Range 24, Refugee Lands, and being the same premises conveyed to Front IV, Inc., by deed recorded in Deed Book 3474, Page 859, Recorder's Office, Franklin County, Ohio:

Beginning at an iron pin the westerly right of way of Sheridan Avenue projected southerly to the southerly right of way of Livingston Avenue; thence South 89 deg. 47' West with the southerly right of way of said Livingston Avenue, a distance of 499.00 feet to the true point of beginning;

Thence South 00 deg. 46' 00" East a distance of 36.00 feet to a point;

Thence North 89 deg. 47' 00" East a distance of 20.00 feet a point;

Thence North 00 deg. 46' 00" West with the southerly right of way line of Livingston Avenue a distance of 20.00 feet to the point of beginning.

Parcel No.: 010-011501-00

TRACT II:

Being a non-exclusive easement over the following described premises for the purpose of ingress and egress and parking for the benefit of the premises adjoining the same on the west; no fence barrier or obstruction shall be erected or maintained so as to restrict the free flow of vehicular traffic over the easement area to and from the premises adjoining the easement area, unless mutually agreed upon by the owners of the premises adjoining the easement area; any owner or owners of the premises adjoining and entitled to use the easement may, at their own expense, improve by paving all or any part of the easement area without securing approval of others entitled to use the same, so long as such improvement work does not unreasonably deny use of the easement area to others entitled to use the same;

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 34, Township 5, Range 24, Refugee Lands and being the same premises conveyed to Front IV, Inc., by deed recorded in Deed Book 3474, Page 859, Recorder's Office, Franklin County, Ohio.

Beginning at an iron pin in the westerly right of way of Sheridan Avenue projected southerly to the southerly right of way of Livingston Avenue; thence South 89 deg. 47' West with the southerly right of way of said Livingston Avenue a distance of 300 feet to a nail; thence South 0 deg. 46' East a distance of 248.53 feet to an iron pin; thence South 89 deg. 47' 13" West a distance of 117.00 feet to a the true point of beginning;

Thence North 0 deg. 46' West a distance of 55.0 feet to a point thence North 89 deg. 47' East, a distance of 20 feet to a point; thence South 0 deg. 46' East a distance of 55.00 feet to a point; thence South 89 deg. 47' 13" West a distance of 20.00 feet to the place of beginning.

TRACT III:

Being a non-exclusive easement over the following described premises for the purpose of ingress and egress and parking for the benefit of the premises adjoining the same on the west; no fence barrier or obstruction shall be erected or maintained so as to restrict the free flow of vehicular traffic over the easement area to and from the premises adjoining the easement area, unless mutually agreed upon by the owners of the premises adjoining the easement area; any owner or owners of the premises adjoining and entitled to use the easement may, at their own expense, improve by paving all or any part of the easement area without securing approval of others entitled to use the same, so long as such improvement work does not unreasonably deny use of the easement area to others entitled to use the same;

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 34, Township 5, Range 24, Refugee Lands and being the same premises conveyed to Front IV, Inc., by deed recorded in Deed Book 3474, Page 859, Recorder's Office, Franklin County, Ohio.

Beginning at an iron pin the westerly right of way of Sheridan Avenue, projected southerly to the southerly right of way of Livingston Avenue; thence South 89 deg. 47' West with the southerly right of way of said Livingston Avenue a distance of 499.00 feet to the true point of beginning;

Thence South 00 deg. 46' East a distance of 248.51 feet to a point;

Thence South 89 deg. 47' 13" West a distance of 20.00 feet to a point;

Thence North 00 deg. 46' West a distance of 248.51 feet to a point in the southerly right of way of Livingston Avenue;

Thence North 89 deg. 47' East with the southerly right of way of Livingston Avenue a distance of 20.00 feet to the place of beginning.

TRACT IV:

Being a non-exclusive easement over the following described premises for the purpose of ingress and egress and parking for the benefit of the premises adjoining the same on the west; no fence barrier or obstruction shall be erected or maintained so as to restrict the free flow of vehicular traffic over the easement area to and from the premises adjoining the easement area, unless mutually agreed upon by the owners of the premises adjoining the easement area; any owner or owners of the premises adjoining and entitled to use the easement may, at their own expense, improve by paving all or any part of the easement area without securing approval of others entitled to use the same, so long as such improvement work does not unreasonably deny use of the easement area to others entitled to use the same;

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 34, Township 5, Range 24, Refugee Lands and being the same premises conveyed to Front IV, Inc., by deed recorded in Deed Book 3474, Page 859, Recorder's Office, Franklin County, Ohio.

Beginning at an iron pin the westerly right of way of Sheridan Avenue projected southerly to the southerly right of way of Livingston Avenue; thence South 89 deg. 47' West with the southerly right of way of said Livingston Avenue a distance of 397.00 feet to the true point of beginning;

Thence South 0 deg. 46' 00" East a distance of 36.00 feet to a point;

Thence North 89 deg. 47' 00" East a distance of 20.00 feet to a point;

Thence North 00 deg 46' 00" West a distance of 36.00 feet to a point in the southerly right of way of Livingston Avenue;

Thence South 89 deg. 47' 00" West with the southerly right of way line of Livingston Avenue a distance of 20.00 feet to the point of beginning.

To Rezone From: C-4, Commercial 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 site plans being titled, "**REZONING SITE PLAN**," and said text being titled, "**CPD TEXT**," both dated January 25, 2022, and signed by Jackson B. Reynolds, III, Attorney for the Applicant, and the text reading as follows:

CPD TEXT

PROPOSED DISTRICT: CPD, Commercial Planned Development

PROPERTY ADDRESS: 2127 East Livingston Avenue

OWNER: Graces Corner Bex-Livingston LLC

APPLICANT: Northstar Realty

DATE OF TEXT: 1/25/22

APPLICATION NUMBER: Z22-005

1. **INTRODUCTION;** The site is located at the south side of East Livingston Avenue and is currently vacant. The site is zoned C-4. The applicant wants to redevelop with a new drive thru restaurant (drive-in business).

2. **PERMITTED USES;** The only permitted uses are those contained in Section 3356, C-4, Commercial District of the Columbus City Code and drive-thru restaurant with no indoor seating (drive-in business) as defined in the C-5, Commercial District.

3. **DEVELOPMENT STANDARDS;** Unless otherwise indicated in the submitted written text, the applicable development standards shall be those contained in Chapter 3356, C-4, Commercial District of the Columbus City Code.

A. Density, Height, Lot Coverage, and Setback Requirements:

Building setback from East Livingston Avenue right-of-way shall be a maximum 40 feet.

B. Parking Standards, Access, and Traffic:

I. All circulation, curbcuts and access points shall be subject to the review and approval of the City's Department of Public Service Division of Traffic Management.

2. A drive shall be allowed in front of the building.

C. Buffering, Landscaping, Open Space and Screening Commitments:

Landscaping for the site shall be installed per the development plan.

D. Building Design and/or Interior-Exterior Treatment Commitments:

Building width shall be a minimum of 19'.

E. Dumpsters, Lighting, Outdoor Display Areas and/or Other Environmental Commitments: N/A

F. Graphics and Signage Requirements:

All graphics and signage shall comply with the Graphics Code, Article 15, Title 33 of the Columbus City Code as it applies to the C-4, Commercial District of the Columbus City Code, and any variance to those requirements will be submitted to the Columbus Graphics Commission for consideration.

G. Miscellaneous Commitments:

1. Modifications to Code Standards:

- (a) CCC 3372.704(A) Setback-to increase the maximum building setback from 25' to 40' (an increase of 15');
- (b) CCC 3372.705(8) Building Design-the width of the building shall be a minimum of 19';
- (c) CCC 3372.707(E) Landscaping - to omit the parking lot screening surrounding the lot due to the existing conditions;
- (d) CCC 3372.709(A) Parking - to allow a drive aisle in front of the building;
- (e) CCC3357.01(B)(2) To reduce the lot width from 120' to 101' (a reduction of 19');
- (f) CCC 3372.705 to reduce the glass facade from 40% to 35% (a decrease of 5%).

2. The Subject Site shall be developed in accordance with the submitted site plan. The site plan may be slightly adjusted to reflect engineering, topographical or other site data developed at the time of development or when engineering plans are completed. Any slight adjustment to the plan shall be reviewed and may be approved by the Director of Building and Zoning Services or his designee upon submission of the appropriate data regarding the proposed adjustment.

3. CPD Criteria:

A. NATURAL ENVIRONMENT: The site contains a vacant building.

B. EXISTING LAND USES: To the north across East Livingston Avenue is commercial; to the east and west is commercial; to the south is an institutional use.

C. TRANSPORTATION AND CIRCULATION: Access shall be from East Livingston Avenue.

D. VISUAL FORM OF THE ENVIRONMENT: See the development text and elevations.

E. VIEW AND VISIBILITY: In the development of the subject property and in the location of the buildings and access points, consideration will be given to the visibility and safety of the motorist and pedestrian.

F. PROPOSED DEVELOPMENT: Drive thru restaurant.

G. EMISSIONS: No adverse effects from emissions shall result from the proposed development.

H. BEHAVIOR PATTERNS: The proposed development should not change the behavior patterns other than to attract customers from the proximate area. Existing development has established behavior patterns in the area.

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