



Legislation Text

File #: 0290-2022, **Version:** 2

Council Variance Application: CV19-111

APPLICANT: Zimmer Development Company, LLC; c/o Jeffrey L. Brown, Atty.; 37 West Broad Street, Suite 460; Columbus, OH 43215.

PROPOSED USE: Ground floor residential uses.

BREWERY DISTRICT COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The applicant received a recommendation of approval from the Development Commission on December 9, 2021, for a concurrent rezoning (Ordinance No. 0289-2022, Z19-082) to the CPD, Commercial Planned Development District, which permits C-4, Commercial District uses. A mixed-use development is proposed. The requested Council variance will allow ground floor residential uses that would otherwise be prohibited, and includes a reduction to the minimum number of required parking spaces for multi-unit residential development from 1.3 from 1.5 parking spaces per unit. This request is consistent with other recent mixed-use developments, and assists in achieving the *Brewery District Plan's* (1992) guideline of encouraging housing to be a permitted use on the Whittier Street Peninsula.

To grant a Variance from the provisions of Sections 3356.03, C-4 permitted uses, 3361.02, Permitted uses, and 3312.49 (C), Minimum numbers of parking spaces required, of the Columbus City Codes; for the property located at **142 W. WHITTIER ST. (43206)**, to permit ground floor residential uses and reduced parking in the CPD, Commercial Planned Development District (Council Variance #CV19-111).

WHEREAS, by application #CV19-111, the owner of property at **142 W. WHITTIER ST. (43206)**, is requesting a Council variance to permit ground floor residential uses in the CPD, Commercial Planned Development District; and

WHEREAS, Section 3356.03, C-4 permitted uses, prohibits residential uses other than apartments above specified commercial uses, while the applicant proposes ground floor residential uses in mixed-use buildings and/or apartment buildings; and

WHEREAS, Section 3361.02, Permitted uses, specifies C-4 district uses, and does not permit ground-floor residential uses, which are permitted only above certain commercial uses in commercial districts, while the applicant proposes ground floor residential uses in mixed-use buildings and/or apartment buildings; and

WHEREAS, Section 3312.49(C), Minimum numbers of required parking spaces, requires 1.5 parking spaces per dwelling unit in multi-unit residential developments, while the applicant proposes a parking ratio of 1.3 parking spaces per dwelling unit; and

WHEREAS, the Brewery District Commission recommends approval; and

WHEREAS, the City Departments recommend approval of the requested variances because the proposal will allow a mixed-use development that is consistent with recent mixed-use developments and the *Brewery District Plan's* guideline

to encourage housing to be a permitted use on the Whittier Street Peninsula; and

WHEREAS, this ordinance requires separate submission for all applicable permits and Certificates 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 **142 W. WHITTIER ST. (43206)**, in using said property as desired; now, therefore:

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

SECTION 1. That a variance from the provisions of Sections 3356.03, C-4, permitted uses, 3361.02, Permitted uses, and 3312.49(C), Minimum numbers of parking spaces required, is hereby granted for the property located at **142 W. WHITTIER ST. (43206)**, insofar as said sections prohibit ground floor residential uses the CPD, Commercial Planned Development District which permits C-4, Commercial District uses; and a reduced parking ratio from 1.5 spaces to 1.3 spaces per unit; said property being more particularly described as follows:

142 W. WHITTIER ST. (43206), being 16.54± acres located on the north side of West Whittier Street, 350± feet west of South Front Street and being more particularly described as follows:

DESCRIPTION OF 16.540 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, located in Half Sections 26, 27, and 28, Township 5 North, Range 22 West, Refugee Lands, being a part of Lot 1 of Neely Sawhill's Estate Plat A, on file in Franklin County Probate Court Complete Record 6, Page 225, being a part of Lots 3, 4 and 5 of Benjamin Sells Partition, of record in Deed Book 27, Page 274, being a part of Lot 15 of Comstockville Amended Subdivision, of record in Plat Book 1, Page 12, and being a part of the lands conveyed to Chesapeake and Ohio Railway by deed recorded in Deed Book 924, Page 338, now known as CSX Transportation, Inc., Successor by Merger, whose merger documents have been recorded as Official Record 13276 A16 and subsequently re-recorded as Official Record 13283 G13 (subsequently referred to herein as "the CSX Property") and declared as "Used in Operations", all recorded referenced herein are on file at the Office of the Recorder for Franklin County, Ohio, and being further bounded and described as follows:

Commencing for reference at a found concrete monument with a 5/8 inch diameter rebar, being at P.I. Station 36+04.86 on the centerline of the Columbus Feeder of The Ohio and Erie Canal, as the same is shown on the Jennings and Lawrence Co. plat thereof, dated January 30, 1927 and on file at the Office of Real Estate & Land Management, Ohio Department of Natural Resources, Columbus, Ohio, the lands of said Columbus Feeder Canal having been acquired by the State of Ohio by the Canal Land Act of 1825 and as described in the Commissioner's Register, said concrete monument being 8.40 feet left of Station 7038+64.06 for the eastern track of the Norfolk & Southern Railway, as shown on sheet V-302 71 of the Right of Way and Track Map for The Toledo and Ohio Central Railway, dated 1918;

Thence along the centerline of said Columbus Feeder Canal along the following three (3) described course:

1. South 19 degrees 01 minute 31 seconds East, a distance of 208.40 feet to an angle point;
2. South 05 degrees 18 minutes 29 seconds West, a distance of 70.70 feet to an angle point;

3. South 22 degrees 14 minutes 31 seconds East, a distance of 544.93 feet to a point on the north right-of-way line for Whittier Avenue (variable width);

Thence North 85 degrees 16 minutes 25 seconds West, along the north right-of-way line for said Whittier Avenue, a distance of 76.12 feet to an iron pin set on a northeast line of the CSX Property, being on the southwest line of said Columbus Feeder Canal lands, and being the TRUE POINT OF BEGINNING for this description;

Thence North 85 degrees 16 minutes 25 seconds West, continuing along the north right-of-way line for said Whittier Avenue, across the CSX property, distance of 42.53 feet to an iron pin set on a southwest line of the CSX property, being on a northeast line of that 59.031 acre tract described in a deed to Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District, of record in Instrument Number 201103110034358;

Thence along common lines between the CSX Property and said 59.031 acre tract, along the following nine (9) described courses:

1. North 19 degrees 58 minutes 34 seconds West, a distance of 627.37 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed PS 6872;

2. North 45 degrees 32 minutes 15 seconds West, a distance of 339.40 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed PS 6872;

3. North 52 degrees 06 minutes 26 seconds West, a distance of 519.15 feet to a $\frac{5}{8}$ inch iron pin found with cap inscribed ME Consultants;

4. South 33 degrees 57 minutes 15 seconds West, a distance of 152.36 feet to a $\frac{5}{8}$ inch iron pin found;

5. North 55 degrees 02 minutes 02 seconds West, a distance of 541.84 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed PS 6872;

6. North 66 degrees 31 minutes 37 seconds West, a distance of 113.71 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed PS 6872;

7. North 86 degrees 09 minutes 37 seconds West, a distance of 301.44 feet to an iron pin set;

8. North 03 degrees 50 minutes 23 seconds East, a distance of 200.00 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed PS 6872;

9. North 67 degrees 15 minutes 00 seconds West, a distance of 209.13 feet to a MAG nail found at a southwest corner of the CSX Property, being a northwest corner of said 59.031 acre tract, being on the east line of Lot 4 of said Neely Sawhill's Estate Plat A, being on the east line of a 20-foot wide alley dedicated in City of Columbus Ordinance Number 16885, and being a northeast corner of the Maier Place easement right-of-way, as depicted on a survey plat on file at the Franklin County Engineer's Office and as dedicated by City of Columbus Ordinance Number 617-2008;

Thence North 04 degrees 14 minutes 47 seconds East, along the west line of the CSX Property, along the east line of said Neely Lot 4, along the east line of said 20-foot wide alley, and along an east line of said Maier Place easement right-of-way, a distance of 205.38 feet to an iron pin set at a northwest corner of the CSX Property, being the northeast corner of said Neely Lot 4, being on the north line of a 20-foot wide alley dedicated in said Commissioners Record 6, Page 235, being the southeast corner of Lot 2 of said Neely Sawhill Estate Plat A, being the southeast corner of Lot 7 and the southwest corner of Lot 6 of said Benjamin Sells Partition, being on the south line of that 6.568 acre tract described in a deed to City of Columbus, Ohio, of record in Instrument Number 199909030226779, and being a northwest corner of said Maier Place easement right-of-way;

Thence South 85 degrees 53 minutes 33 seconds East, along the north line of the CSX Property, along the north line of said 20-foot wide alley, along the south line of said Sells Lot 6, along the south line of said 6.568 acre tract, along the north line of said Maier Place easement right-of-way; and along a south line that 7.414 acre tract described in a deed to City Properties, Inc., of record in Official Record 13166 B13, a distance of 42.01 feet to a $\frac{3}{4}$ inch iron pipe found at a northerly corner of the CSX Property, being the northwest corner of that 0.183 acre tract described in a deed to City Properties, Inc., of record in Official Record 14460 A09;

Thence South 56 degrees 21 minutes 05 seconds East, along a northeast line of the CSX Property, along a southwest line of said 0.183 acre tract, a distance of 236.06 feet to an iron pin set at the southeast corner of said 0.183 acre tract, being a southwest corner of said 7.414 acre tract;

Thence South 58 degrees 04 minutes 16 seconds East, continuing along a northeast line of the CSX Property, along a southwest line of said 7.414 acre tract, a distance of 46.27 feet to an iron pin set at a northerly corner of the CSX Property, being a southwest corner of said 7.414 acre tract;

Thence North 64 degrees 08 minutes 10 seconds East, along a north line of the CSX Property, along the south line of said 7.414 acre tract, (passing at a distance of 276.20 feet the south line of Lot 1 of said Neely Sawhill's Estate, being the south line of Lot 4 of said Benjamin Sells Partition), a total distance of 464.11 feet to an iron pin set at a northeast corner of the CSX Property, being the southeast corner of said 7.414 acre tract;

Thence North 25 degrees 53 minutes 18 seconds West, along a west line of the CSX Property, along the east line of said 7.414 acre tract, across said Neely Lot 1 and said Sells Lot 4, across Lot 5 of said Benjamin Sells Partition, along the east line of that original 10.773 acre tract described in a deed to Board of Park Commissioners of the Columbus and Franklin County Metropolitan Park District, of record in Instrument Number 200504190072924, and along the east line of that 0.6707 acre limited access right-of-way parcel described as Parcel 3-WL (FRA-70-12.68) in a deed to State of Ohio, of record in Instrument Number 201910310145304, a distance of 1,315.71 feet to a $\frac{3}{4}$ inch iron pipe found with cap inscribed ME Companies at a northwest corner of the CSX Property, being the original northeast corner of said 10.773 acre tract, being the northeast corner of said Parcel 3-WL, and being on the southeast line of that limited access right-of-way parcel described as Parcel 610-WL (FRA-70-12.31S), an easement appropriated by the State of Ohio on file in the Right of Way Section of the Journal of the Director of Highways, Volume 57, Page 748 (fee interest in the name of Sarah & Pauline Maier, of record in Deed Book 2296, Pages 202 and 211);

Thence North 19 degrees 39 minutes 02 seconds East, along a northwest line of the CSX Property, along a southeast line of said Parcel 610-WL, a distance of 79.43 feet to an iron pin set at a northwest corner of the CSX Property, being a southeast corner of said 610-WL;

Thence North 26 degrees 40 minutes 23 seconds West, along a west line of the CSX Property, along the east line of said Parcel 610-WL, a distance of 85.58 feet to a northwest corner of the CSX Property, being the northerly corner of said Parcel 610-WL, and being a southeast corner of that limited access right-of-way parcel described as Parcel 4-LA (FRA-40R-12.30) in a deed to State of Ohio, of record in Deed Book 2021, Page 633;

Thence North 15 degrees 57 minutes 26 seconds West, along a northwest line of the CSX Property, along a southeast line of said Parcel 4-LA, a distance of 19.33 feet to a point;

Thence North 03 degrees 29 minutes 07 seconds East, along a northwest line of the CSX Property, along a southeast line of said Parcel 4-LA, a distance of 98.12 feet to an iron pin set at a northwest corner of the CSX Property, being a northeast corner of said Parcel 4-LA, and being on the original south right-of-way line for Mound Street (variable width), and being on the north line of Lot 15 of said Comstockville Amended Subdivision;

Thence North 66 degrees 00 minutes 46 seconds East, along the north line of the CSX Property, along the original south right-of-way line for said Mound Street, and along the north line of said Comstockville Lot 15, a distance of 6.63 feet to an in pin set;

Thence across the CSX Property along new division lines, along the following eight (8) described courses:

1. South 26 degrees 04 minutes 20 seconds East, along a line parallel to and 50.00 feet westerly measured perpendicularly from the centerline of the westerly railroad rails of the CSX railroad as located in September 2019, a distance of 217.42 feet to an iron pin set;
2. South 19 degrees 39 minutes 02 seconds West, along a line parallel to and 60.00 feet southeasterly measured perpendicularly from the northwest line of the CSX Property and the southeast line of said Parcel 610-WL, a distance of 76.09 feet to an iron pin set;
3. South 25 degrees 53 minutes 18 seconds East, along a line parallel to and 60.00 feet easterly measured perpendicularly from the west line of the CSX Property, the east line of said Parcel 3-WL, the east line of said original 10.773 acre tract and the east line of said 7.414 acre tract, across said Neely Lot 1 and said Sells Lot 4, a distance of 1,290.55 feet to an iron pin set, being on the easterly projection of the south line of said 7.414 acre tract;
4. North 64 degrees 08 minutes 10 seconds East, along the easterly projection of the south line of said 7.414 acre tract, continuing across said Neely Lot 1 and said Sells Lot 4, a distance of 58.63 feet to an iron pin set;
5. South 26 degrees 04 minutes 20 seconds East, along a line parallel to and 50.00 feet westerly measured perpendicularly from the centerline of the westerly railroad rails of the CSX railroad as located in September 2019, a distance of 293.48 feet to an iron pin set at a point of curvature;
6. Along the arc of a curve to the left, being parallel to and 50.00 feet westerly as measured radially from the centerline of the westerly railroad rails of the CSX railroad as located in September 2019, said curve having a radius of 3,622.52 feet, a central angle of 15 degrees 20 minutes 57 seconds, and an arc length of 970.45 feet to an iron pin set at a point, said curve being subtended by a long chord having a bearing of South 33 degrees 44 minutes 49 seconds East and a length of 967.55 feet;
7. South 52 degrees 06 minutes 26 seconds East, along a line parallel to and 40.00 feet easterly measured perpendicularly from the west line of the CSX Property and the east line of said 59.031 acre Metropolitan Park District tract (specifically the 519.15-foot line), a distance of 22.46 feet to an iron pin set;
8. South 45 degrees 32 minutes 15 seconds East, along a line parallel to and 33.00 feet easterly measured perpendicularly from the west line (and its northerly projection) of the CSX Property and the east line of said 59.031 acre Metropolitan Park District tract (specifically the 339.40-foot line), a distance of 456.96 feet to an iron pin set on an east line of the CSX Property, being on the west line of the said Columbus Feeder Canal Lands;

Thence along an east line of the CSX Property and along the west line of the said Columbus Feeder Canal Lands, along the following three (3) described courses:

1. South 19 degrees 05 minutes 24 seconds East, a distance of 36.14 feet to an iron pin set;
2. South 19 degrees 23 minutes 25 seconds East, a distance of 263.71 feet to an iron pin set;
3. South 17 degrees 52 minutes 35 seconds East, a distance of 310.61 feet to the TRUE POINT OF BEGINNING for this description.

The above description contains a total area of 16.540 acres, of which 5.625 acres is out of Franklin County Auditor's Parcel Number 010-057548, 8.695 acres is out of Franklin County Auditor's Parcel Number 010-066150, 0.692 Acres is out of Franklin County Auditor's Parcel Number 010-066147, and 1.528 acres (including 0.235 acres located within State of Ohio Highway and Aerial Easements) is out of Franklin County Auditor's Parcel Number 010-066146. Iron pins referenced as set are 5/8 inch diameter by 30 inch long rebar with caps inscribed "ASI PS 8438".

Property Address: 142 W. Whittier St., Columbus, OH 43206.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is developed with residential uses as permitted by this ordinance, and/or those uses in the CPD, Commercial Planned Development District as specified by Ordinance No. 0289-2022 (Z19-082).

SECTION 3. The maximum number of apartment units shall be 780.

SECTION 4. The applicant has agreed to provide affordable housing in this development. Ten percent of the units for a period of ten years will be available to tenants who are earning 80% of the area median income (AMI) for Columbus.

SECTION 3 5. That this ordinance is further conditioned on the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.

SECTION 4 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.