



# City of Columbus

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

## Legislation Text

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**File #:** 1955-2022, **Version:** 1

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### **Council Variance Application: CV21-095**

**APPLICANT:** Lykens Companies; c/o Dave Perry, Agent; Dave 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.

**UNIVERSITY AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site was formerly developed with a retail carry-out establishment in the C-4, Commercial District, and lies within the NC, Neighborhood Commercial subarea of the University District Zoning Overlay (UDZO). The Applicant is requesting a Council variance to permit a mixed-use development containing 4,500 square feet of eating and drinking establishment use, 900 square feet of accessory outdoor dining use, 59 enclosed parking spaces, and 48 apartment units, two of which will be located on the ground floor. A Council variance is required because ground floor residential uses are not permitted in the C-4, Commercial District. Variances to maneuvering, parking space, floor area ratio (FAR), vision clearance, building height, building design standards, and a parking reduction from 64 required spaces to 59 provided spaces are included in the request. The *University District Plan* (2015), recommends "Neighborhood Mixed Use" land uses at this site, consistent with the proposed mix of commercial and multi-unit residential uses. The request will result in a mixed-use development that is generally consistent with existing and proposed development projects along the East Fifth Avenue and North Fourth Street corridors, as well as the mixed-use and urban nature of the neighborhood.

To grant a Variance from the provisions of Sections 3356.03, C-4 permitted uses; 3312.25, Maneuvering; 3312.29, Parking space; 3312.49(C), Minimum numbers of parking spaces required; 3321.05(B)(1), Vision clearance; 3325.213 (B), FAR Standards; 3325.223, Building Height Standard; 3325.241(D), Building Design Standards; and 3356.05(F)(2), C-4 district development limitations, of the Columbus City Codes; for the property located at **200 E. 5<sup>TH</sup> AVE. (43201)**, to permit a mixed-use development with reduced development standards in the C-4, Commercial District, (Council Variance #CV21-095).

**WHEREAS**, by application #CV21-095, the owner of the property at **200 E. 5<sup>TH</sup> AVE. (43201)**, is requesting a Variance to permit a mixed-use development with reduced development standards in the C-4, Commercial District; and

**WHEREAS**, Sections 3356.03, C-4 permitted uses, permits residential uses only above certain commercial uses, while the applicant proposes two ground floor dwelling units and accessory residential uses as part of a mixed-use development; and

**WHEREAS**, Section 3312.25, Maneuvering, requires every parking space to have sufficient access and maneuvering area anywhere on the lot where the parking spaces are located, but cannot include an abutting parking space, while the applicant proposes to permit four stacked parking spaces with maneuvering reduced from 20 feet to 0 feet for the four interior spaces, and from 20 feet to 8 feet for the exterior space of the western most pair of stacked spaces, as shown on the site plan; and

**WHEREAS**, Section 3312.29, Parking space, requires parking spaces to be no less than nine feet wide by 18 feet deep and only permits stacked parking spaces to be counted as required spaces for single- and two-unit dwellings, while the applicant proposes four pairs of stacked spaces, with a reduced length of 15.75 feet, to be counted toward the total number of required parking spaces, subject to each pair of stacked spaces being assigned to the same dwelling unit; and

**WHEREAS**, Section 3312.49(C), Minimum number of parking spaces required, requires one parking space per 150 square feet of eating and drinking establishment space, and one parking space per 300 square feet of accessory outdoor dining space, a total of 33 spaces for 4,500 square feet of eating and drinking space and an 900 square foot accessory dining patio, with a 50 percent reduction per the parking requirement reductions in Section 3325.281(B)(1); and 0.5 parking spaces per bedroom, or 31 spaces for 61 bedrooms per 3325.281(B)(2), for a total of 64 parking spaces, while the applicant proposes 59 parking spaces on the subject site; and

**WHEREAS**, Section 3321.05(B)(1), Vision clearance, requires a 10 foot clearance triangle at the intersection of North Fourth Street and a public alley, while the applicant proposes no clear vision triangle, as shown on the site plan; and

**WHEREAS**, Section 3325.213(B), FAR Standards, requires that the maximum calculated floor area permitted on a vacant lot in the Neighborhood Commercial (NC) subarea be no greater than 1.4, while the applicant proposes an increased FAR of 2.4; and

**WHEREAS**, Section 3325.223, Building Height Standard, requires that within the NC subarea, the maximum building height shall be 45 feet, while the applicant proposes an increased building height of 60 feet; and

**WHEREAS**, Section 3325.241(D), Building Design Standards, requires that at least 60 percent of the area between the height of two feet and ten feet above the nearest sidewalk or shared-use path grade shall be clear/non-tinted window glass permitting a view of the building's interior to a minimum depth of four feet, while the applicant proposes 35 percent along the south elevation and 50 percent along the east elevation, with 80 percent of the provided south elevation glass to be frosted rather than clear/non-tinted; and

**WHEREAS**, Section 3356.05(F), C-4 district development limitations, permits dwellings units located above parking garages subject to permitted commercial uses occupying the entire length of at least one frontage, while the applicant proposes a commercial use that occupies the East Fifth Avenue and North Fourth Street frontage, but neither entirely, as shown on the site plan; and

**WHEREAS**, the University Area Commission recommends approval; and

**WHEREAS**, the City Departments recommend approval of the requested variances because the proposal remains consistent with the *University District Plan's* land use recommendation, the development pattern along East Fifth Avenue and North Fourth Street, and will not introduce incompatible uses to the area; and

**WHEREAS**, said 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 **200 E. 5<sup>TH</sup> AVE. (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 3356.03, C-4 permitted uses; 3312.25, Maneuvering; 3312.29, Parking space; 3312.49(C), Minimum numbers of parking spaces required; 3321.05(B)(1), Vision clearance; 3325.213(B), FAR Standards; 3325.223, Building Height Standard; 3325.241(D), Building Design Standards; and 3356.05(F)(2), C-4 district development limitations, of the Columbus City Codes; for the property located at **200 E. 5<sup>TH</sup> AVE. (43201)**, insofar as said sections prohibit ground floor residential uses in the C-4, Commercial District; reduced maneuvering from 20 to 0 feet for four stacked parking spaces, with the interior spaces maneuvering through the adjacent parking space, and maneuvering reduced from 20 feet to 18 feet for the exterior space of the western pair of stacked spaces; reduced parking space length from 20 feet to 15.75 feet for eight parking spaces; eight stacked parking spaces to be counted toward the minimum parking spaces required; a parking space reduction from 64 spaces to 59 spaces; reduced clear vision triangle from 10 feet to 0 feet at the intersection of North Fourth Street and a public alley; an increased FAR from 1.4 to 2.4; an increase in building height from 45 feet to 60 feet; a reduction in clear/non-tinted glass from 60 percent to 35 percent on the south elevation, 50 percent on the east elevation, and further that 80 percent of the provided south elevation glass be frosted glass; and garage parking adjoining commercial uses that occupy less than the entire length of the either frontage; said property being more particularly described as follows:

**200 E. 5<sup>TH</sup> AVE. (43201)**, being 0.57± acres located at the northwest corner of East 5<sup>th</sup> Avenue and North 4<sup>th</sup> Street, and being more particularly described as follows:

**DESCRIPTION OF 0.581 ACRES**

Situated in the State of Ohio, County of Franklin, City of Columbus, being located in Quarter Section 3, Township 1, Range 18, United States Military Lands, being all of those tracts of land described in deeds to Lakshmi 200 E. 5th, of record in Instrument Number 201504090044856 and Instrument Number 201508040107046, hereafter collectively referred to as the Lakshmi tract, all records referenced herein are on file at the Office of the Recorder for Franklin County, Ohio, and being further bounded and described as follows:

BEGINNING at the intersection of the existing north right-of-way line for 5th Avenue (60 feet wide - public) and the existing west right-of-way line for N. 4th Street (50 feet wide - public), being the southeast corner of said Lakshmi tract;

Thence North 86 degrees 37 minutes 21 seconds West, along the existing north right-of-way line for 5th Avenue and along the south line of said Lakshmi tract, a distance of 169.71 feet to the southwest corner of said Lakshmi tract;

Thence North 03 degrees 13 minutes 51 seconds East, along the west line of said Lakshmi tract, a distance of 148.44 feet to the northwest corner of said Lakshmi tract, being on the existing south right-of-way line for an alley (22 feet wide - public);

Thence South 87 degrees 19 minutes 13 seconds East, along the existing south right-of-way line for said alley and along the north line of said Lakshmi tract, a distance of 169.18 feet to the intersection of the existing south right-of-way line for said alley and the existing west right-of-way line for N. 4th Street, being the northeast corner of said Lakshmi tract;

Thence South 03 degrees 01 minute 36 seconds West, along the existing west right-of-way line for N. 4th Street and along the east line of said Lakshmi tract, a distance of 150.50 feet to the POINT OF BEGINNING for this description.

The above description contains a total area of 0.581 acres, of which:

0.239 acres is located within Franklin County Auditor's parcel number 010-030230,

0.121 acres is located within Franklin County Auditor's parcel number 010-009540,

0.122 acres is located within Franklin County Auditor's parcel number 010-002308,

0.099 acres is located within Franklin County Auditor's parcel number 010-019917.

Bearings described herein are based on North 86 degrees 37 minutes 21 seconds West for the north right-of-way line for 5th Avenue, measured from Grid North, referenced to the Ohio State Plane Coordinate System (South Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

Parcel Nos. 010-002308, 010-009540, 010-019917 and 010-030230.

Property Address: 200 E. 5<sup>th</sup> Ave., Columbus, OH 43201.

**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 with up to 4,500 square feet of eating and drinking establishment space, up to 900 square feet of accessory outdoor dining space, 59 enclosed parking spaces, and up to 48 dwelling units, or those uses permitted in the C-4, Commercial District.

**SECTION 3.** That this ordinance is further conditioned on general conformance with the site plan drawing titled, "**ZONING SITE PLAN FOR MIXED-USE BUILDING 200 E 5<sup>TH</sup> AVENUE SHEETS 1 & 2,**" signed by David B. Perry, Agent for the Applicant, and Donald Plank, Attorney for the Applicant, dated June 20, 2022. 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 adjustment to the plan shall be reviewed and may be approved by the Director of the Department of 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 each pair of the four pairs of stacked parking spaces being assigned to the same dwelling unit, and 27 additional parking spaces on site being assigned to residential units.

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

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