



## Legislation Text

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**File #:** 2101-2022, **Version:** 1

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### **Council Variance Application: CV18-063**

**APPLICANT:** Northstar Realty; c/o Michael Shannon, Atty.; Underhill & Hodge, LLC; 8000 Walton Parkway, Suite 260; New Albany, OH 43054.

**PROPOSED USE:** Mixed-use development.

**COLUMBUS SOUTH SIDE AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site consists of six parcels developed with a former dinner theater/catering hall, a car rental facility, and a contractors office in the C-4, Commercial District, with a small portion of one of the parcels zoned in the R-2F, Residential District as a result of vacated alley right-of-way. The requested Council variance will permit redevelopment of the site with a mixed-use development containing approximately 6,282 square feet of retail space, 10,349 square feet of restaurant space without pickup unit, 2,017 square feet of restaurant space with pickup unit, 620 square feet of restaurant patio space, and 170 apartment units. Variances for residential use in the C-4 district, commercial parking in the R-2F district, increased building height, reduced soil area for parking lot trees, required bicycle parking location, reduced building lines, and a parking space reduction from 434 required to 207 provided spaces are included in the request. The site is within the planning area of the *South Side Plan* (2014), which recommends "Neighborhood Commercial" uses for this location, and includes adoption of *Columbus Citywide Planning Policies* (C2P2) Design Guidelines (2018). Planning Division staff notes the included elevations reflect high quality materials and a height step-down on the site's southeast portion toward Washington Avenue, consistent with C2P2 guidelines encouraging lessened visual impact as development abuts lower intensity uses. The step-down allows for an amenity space which is supported by staff as appropriate open space for an urban area. Staff also notes and are in support of provided bicycle parking above the code-required minimum as a mitigating factor for supporting the proposed parking reduction. The applicant completed a parking study and received support for the parking variance from the Department of Public Service. Staff finds the proposed mixed-use building and requested variances to be consistent with the recent development pattern along East Livingston Avenue and similar mixed-use infill projects in urban neighborhoods.

To grant a Variance from the provisions of Sections 3332.037, R-2F, residential district; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.21(A)(2), Landscaping and screening; 3312.49(A)(C), Minimum numbers of parking spaces required; 3356.05(F), C-4 district development limitations; and 3356.11, C-4 district setback lines, of the Columbus City Codes; for the property located at **459 E. LIVINGSTON AVE. (43215)**, to permit a mixed-use development with reduced development standards in the C-4, Commercial District and R-2F, Residential District (Council Variance #CV18-063).

**WHEREAS**, by application #CV18-063, the owner of the property at **459 E. LIVINGSTON AVE. (43215)**, is requesting a Variance to permit a mixed-use development with reduced development standards in the C-4, Commercial District and R-2F, Residential District; and

**WHEREAS**, Section 3332.037, R-2F, residential district, prohibits commercial parking lots, while the applicant proposes vehicle maneuvering and parking for commercial uses; and

**WHEREAS**, Sections 3356.03, C-4 permitted uses, permits residential uses only above certain commercial uses, while the applicant proposes ground floor residential uses and amenities; and

**WHEREAS**, Section 3309.14, Height districts, requires a maximum building height of 35 feet at the setback for this property, while the applicant proposes a multi-story building not to exceed a height of 65 feet; and

**WHEREAS**, Section 3312.21(A)(2), Landscaping and screening, requires that interior parking lot trees shall be planted in landscaped islands or peninsulas containing a minimum soil area of 145 square feet per tree with a minimum radius of 4 feet, while the applicant proposes three parking lot tree islands or peninsulas containing a reduced soil area of 125 feet; and

**WHEREAS**, Section 3312.49(A), Minimum numbers of parking spaces required, requires bicycle parking spaces be located in a highly visible area on the property for the uses to be served, while the applicant proposes to provide the required bicycle parking spaces within a designated area in a private parking garage that cannot be directly seen from the public right-of-way; and

**WHEREAS**, Section 3312.49(C), Minimum number of parking spaces required, requires 1.5 parking spaces per apartment unit, 1 parking space per 75 square feet of eating and drinking establishment space, 1 parking space per 150 square feet of outside dining space, 1 parking space per 175 square feet of eating and drinking establishment with pick-up unit space, and 1 parking space per 250 square feet of retail space, for a total requirement of 434 parking spaces, while the applicant proposes to provide 207 parking spaces; and

**WHEREAS**, Section 3356.05(F), C-4 district development limitations, requires that first-floor parking garages with dwelling units above must be connected/adjoined to commercial uses that occupy the entire length of at least one property frontage, while the applicant proposes no such connection for some of the units; and

**WHEREAS**, Section 3356.11, C-4 district setback lines, requires buildings to have a setback of 50 feet along East Livingston Avenue and 25 feet along South 9<sup>th</sup> Street and South Washington Avenue, while the applicant proposes setbacks of zero feet from these streets; and

**WHEREAS**, the Columbus South Side Area Commission recommends approval; and

**WHEREAS**, the City Departments recommend approval of the requested variances because the proposal is consistent with the development pattern along East Livingston Avenue and similar mixed-use projects in urban neighborhoods. Additionally, the building elevations and step-down building design are consistent with C2P2 Design Guidelines; 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 **459 E. LIVINGSTON AVE. (43215)**, 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 3332.037, R-2F, residential district; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.21(A)(2), Landscaping and screening; 3312.49(A)(C), Minimum numbers of parking spaces required; 3356.05(F), C-4 district development limitations; and 3356.11, C-4 district setback lines, of the Columbus City Codes, for the property located at **459 E. LIVINGSTON AVE. (43215)**, insofar as said sections prohibit commercial parking in the R-2F, Residential District and ground floor residential uses and amenities in the C-4, Commercial District; with an increase in building height from 35 feet to 65 feet; reduced soil area from 145 to 125 square feet for parking lot trees; required bicycle parking spaces located in a private parking garage instead of a highly visible area; a parking space reduction from 434 required spaces to 207 provided spaces; residential uses above parking spaces that do not adjoin to commercial uses; and reduced building setback lines from 50 feet along East Livingston Avenue and 25 feet along South 9<sup>th</sup> Street and South Washington Avenue to zero feet; said property being more particularly described as follows:

**459 E. LIVINGSTON AVE. (43215)**, being 1.53± acres located at the southeast corner of East Livingston Avenue and South 9th Street, and being more particularly described as follows:

#### **Tract 1**

##### **Description of 1.289 acres**

Situated in the State of Ohio, County of Franklin, City of Columbus and being all of Lots 4-7, a part of a 10' wide Alley (Dutch Alley) of James Bryden's 2nd Addition of record in Deed Book 38, Pg. 275, and being all of Lots I and 2 of Peter J. Faust & George Dorberts Subdivision as recorded in P.B. 3, Pg. 422 and being a part of Lot I of Joseph Schwartz Plat of Petersburg as recorded in D.B. 32, Pg. 109, as conveyed to Charlie's Comer II, LLC as recorded in Instrument No. 201707130095868, 475 Livingston, LLC as recorded in Instrument No. 201801050002613, and Charlie's Comer 485 LLC as recorded in Instrument No. 201806190081192, Recorder's Office, Franklin County, Ohio containing 1.289 acres and being further described as follows:

Beginning for reference at a found Mag Nail in the intersection of the centerlines of S. 9th St., (30' wide) and Livingston Ave. (U.S. Rt. 33, 60' wide);

Thence, S 86°59'47" E, 32.77', along the centerline of said Livingston Ave., to a point;

Thence, S 03°00'13" W, 30.00', crossing said Livingston Ave, to a Mag Nail found, said Mag Nail being the northeast corner of a 0.0034 acre tract as conveyed to City of Columbus, Ohio as recorded in Instrument No. 201709250133605, said Mag Nail being in the north line of Lot 4 of James Byrden's 2nd Addition as recorded in D.B. 38, Pg. 275; said Mag Nail being in the south line of said Livingston Ave., said Mag Nail being the True Place of Beginning for the herein described 1.289 acre tract;

Thence S 86°59'47"E, 195.00', along the south line of said Livingston Ave., being the north line of said Lots 4-7, and said Lot I, and said Dutch Alley to a Mag Nail set;

Thence S 86°13'26"E, 127.32', continuing along the south line of said Livingston Ave., being the north line of said Lot 2, to a Mag Nail set, said Mag Nail being the northeast corner of said Lot 2 as conveyed to Charlie's Corner 485 LLC and being the northwest corner of Lot I of said Peter J. Faust & George Dorberts Subdivision as conveyed to 4931livingston LLC as recorded in Instrument No. 201507020089236;

Thence S 03°28'08"W, 187.50', along the east line of said Lot 2, being the west line of said Lot I, to a ¾" iron pipe found w/cap stamped "PS 6570", said iron pipe being the common corner between said Lots I & 2, said iron pipe being in the north line of 25' wide Alley;

Thence N 86°13'26"W, 127.32', along the north line of said 25' wide Alley, being the south line of said Lots 2 & I, to an iron pin set in the east line of Lot 8 of said James Bryden's 2nd Addition as conveyed to Ball Alley Properties, LLC as recorded in Instrument No. 200305280158690;

Thence N 03°28'08"E, 22.00', along the east line of said Lot 8, being the west line of said Lot I, to a point said point being referenced by a found<sup>3</sup>/<sub>4</sub>" iron pipe located 0.48' south and 0.11' west;

Thence N 86°59'47"W, 60.00', along the north line of said Lot 8, crossing said Dutch Alley, to a Mag Nail set, said Mag Nail being the northeast corner of Lot 9 of said James Bryden 's 2nd Addition as conveyed to Elizabeth C. Parke & Trent E. Ecklar as recorded in Instrument No. 201405050054758;

Thence N 03°28'08"E, 15.50', crossing Ball Alley (15.5 wide) along the west line of said Dutch Alley, to a Mag Nail set at the southeast corner of said Lot 6 of said James Bryden's 2nd Addition;

Thence N 86°59'47"W, 150.00', along the north line of said Ball Alley, being the south line of said Lots 6-4, to a Mag Nail set, said Mag Nail being the intersection of the north line of said Ball Alley and the east line of said S. 9th St;

Thence N 03°28'08"E, 140.00', along the east line of said S. 9th St., being the west line of said Lot 4, to a Mag Nail found at the southwest corner of said 0.0034 acre tract;

Thence S 86°59'47"E, 14.99', along the south line of said 0.0034 acre tract, crossing said Lot 4, to a Mag Nail found at the southeast corner of said 0.0034 acre tract;

Thence N 03°35'00"E, 10.00', along the east line of said 0.0034 acre tract, crossing said Lot 4 to the True Place of Beginning, having an area of 56153 Square Feet, 1.289 Acres, more or less, subject to all legal easements and right of ways of record.

Bearings are based on the east line of said Dutch Alley. as being S 03°28'08" W based on GPS observations using the State of Ohio Department of Transportation VRS System, the State Plane Coordinate System, Ohio South Zone, North American Datum, of 1983, also known as NAD83 (2011 Adjustment). All iron pins set are 5/8" rebar, 30" long with yellow plastic cap stamped "J & J Surveying". All references to documents are recorded in the Franklin County Recorder's Office. This description is based on an actual field survey performed by J & J Surveying under the direction of John W. Wetherill, P.S. 781I, in August 2017.

## **Tract 2**

### **Description of 0.24 acres**

Situated in the City of Columbus, County of Franklin and the State of Ohio:

Being in and part of Dorbert and Fausts Subdivision as the same is shown of record in Plat Book 3, Page 422, Recorder's Office, Franklin County, Ohio and being more particularly described as follows:

Beginning at a spike in the South line of Livingston Avenue at its intersection with the West line of a 28 foot alley (now known as Washington Avenue), as shown on said plat; thence South with the West line of Washington Avenue 187.82 feet to an iron pin at the intersection of said West line of Washington Avenue with the North line of a 25 foot alley shown on the above mentioned plat; thence West with the North line of said alley, 54.25 feet to a fence now standing (April 30, 1946), and extending from Livingston Avenue to the last point above mentioned; thence North along said fence 187.82 feet to a point in the South line of Livingston Avenue; Thence East 54.25 feet to the place of beginning and being all of that part of Dorbert and Fausts Subdivision lying between Washington Avenue and the fence above mentioned, and between Livingston Avenue and the first alley south of Livingston Avenue.

**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 6,282 square feet of retail space, 10,349 square feet of restaurant space without pickup unit, 2,017 square feet of restaurant space with pickup unit, 620 square feet of restaurant patio space, and a

maximum of 170 apartment units, or those uses permitted in the R-2F, Residential and C-4, Commercial districts.

**SECTION 3.** That this ordinance is further conditioned on general conformance with the submitted plans titled, "**ZONING SITE PLAN**," and "**PRELIMINARY BUILDING ELEVATIONS SHEETS 1 & 2**," signed by Eric Zartman, Attorney for the Applicant, dated June 22, 2022. 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 adjustment to the plans 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 the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.

**SECTION 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.