



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda - Final

Major Projects & Smart Government

*Chairperson Greg Landsman
Councilmember Chris Seelbach
Councilmember David Mann
Councilmember Wendell Young
Councilmember Jan-Michele Kearney*

Wednesday, February 17, 2021

1:00 PM

Council Chambers, Room 300

ROLL CALL

AGENDA

1. [202100101](#) REPORT, dated 1/21/2021, submitted by Paula Boggs Muething, City Manager, regarding Feasibility of a Two-Way Protected Bike Lane on Clifton Avenue. (SEE REFERENCE DOC #202001464)

Sponsors: City Manager
Attachments: [Report](#)

2. [202100102](#) REPORT, dated 1/21/2021, submitted by Paula Boggs Muething, City Manager, regarding Parking Analysis of Madisonville NBD. (SEE REFERENCE DOC #202001320)

Sponsors: City Manager
Attachments: [Report](#)
[Attachment I](#)
[Attachment II](#)
[Attachment III](#)
[Attachment IV](#)

3. [202100203](#) MOTION, submitted by Councilmember Kearney, WE MOVE that Councilmember Betsy Sundermann be appointed Vice Chair of the Neighborhoods Committee.

Sponsors: Kearney
Attachments: [Motion 202100203](#)

4. [202100469](#) ORDINANCE (EMERGENCY) submitted by Paula Boggs Muething, City Manager, on 2/3/2021, AUTHORIZING the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation in order to facilitate the installation of sidewalks and access ramps, which will be in compliance with the Americans with Disabilities Act, on the western side of Reading Road (U.S. Route 42), in the Roselawn neighborhood, between Sunnybrook Drive and the corporation line with Sycamore Township, including any installations necessary to connect the sidewalk to the eastern side of Reading Road (U.S. Route 42) in the City of Reading.

Sponsors: City Manager

Attachments: [TRANSMITTAL](#)
[ORDINANCE](#)

ADJOURNMENT

January 21, 2021

To: Mayor and Members of City Council **202100101**
From: Paula Boggs Muething, City Manager
Subject: Feasibility of A Two-Way Protected Bike Lane on Clifton Avenue

REFERENCE DOCUMENT # 202001464

On September 15, 2020, the Major Projects and Smart Government Committee referred the following for a report:

MOTION, submitted by Councilmember Kearney, for the City Administration to deliver a report to City Council regarding the feasibility of implementing a two-way protected bike lane on Clifton Avenue, in response to the recent request (see attached) from Clifton Town Meeting. WE FURTHER MOVE for this report to be delivered within 14 days following passage of this motion.

The following report addresses the feasibility of a two-way protected bike lane on Clifton Avenue, from Calhoun Street to Ludlow Avenue and details the steps required for consideration of either a pilot or permanent protected bike lane.

SUMMARY

The Department of Transportation and Engineering (DOTE) has determined that construction of a protected two-way bike lane on the east side of Clifton Avenue is feasible between Straight Street and Ludlow Avenue. A second phase extending the two-way bike lane to Calhoun Street may be possible after further analysis.. DOTE recommends installation of a temporary two-way bike lane from Straight Street to Ludlow Avenue to assist in design of a permanent lane. \$50,000 in funding is needed to complete installation of a temporary lane.

ANALYSIS

When considering the installation of protected bike lanes, there are many factors that must be considered when determining the appropriate design, including access, network connectivity and functionality, traffic operations, number of driveways and intersections, and topography, pedestrian crossings, on-street parking, intersection and signal operations, commercial loading zones, and transit stops etc.

For Clifton Avenue between Straight Street and Ludlow Avenue, DOTE has determined that a two-way protected bike lane on the east side of the street is feasible and will provide a higher level of safety, functionality, and comfort than other options (ex. One-way lanes or on the west side). The area between Straight Street and Calhoun Street is discussed below.

A two-way protected bike lane on the east side of Clifton Avenue will have minimal conflicts with turning vehicles. The east side of the street has one driveway into Burnet Woods, one cross street and four driveways. Additionally, a two-way protected bike lane on the east side requires minimal loss of parking and few modifications at transit stops. The existing signals at Straight Street, Clifton Court, MLK Drive, Good Sam Hospital, Dixmyth Avenue and Ludlow Avenue provide ample opportunity for bicyclists to safely cross the street at intersections.

STRAIGHT STREET TO CALHOUN STREET

DOTe recommends stopping at Straight Street with the temporary installation to allow for additional observation and analysis of the turning movements from Calhoun Street onto Clifton Avenue. This data will be used to inform the design of the permanent protected bike lane and potentially extend it to Calhoun Street.

CONCLUSION

Based on the data collected, and consultation with staff from the National Association of City Transportation Officials (NACTO), DOTe has determined that a protected two-way bike lane on Clifton Avenue from Ludlow Avenue to Straight Street is currently feasible and is preferable over other options due to the increased safety, functionality, and comfort.

Prior to full scale implementation, DOTe recommends the installation of a temporary two-way protected bike lane in order to evaluate its performance and use the data collected to aid in the design of a permanent protected bike lane on this site.

DOTe has absorbed the costs associated with the initial assessment; however, \$50,000 in funding is necessary for the design and construction of the temporary two-way protected bike lane. DOTe does not currently have funding available for this purpose, so this funding would need to be identified and secured from public or private sources.

cc: John S. Brazina, Director, Transportation and Engineering John B.

Date: January 21, 2021

To: Mayor and Members of City Council **202100102**
From: Paula Boggs Muething, City Manager
Subject: PARKING ANALYSIS OF MADISONVILLE NBD

Reference Document #202001320

The Council at its session on September 30, 2020 referred the following item for review and report.

MOTION, submitted by Councilmember Sundermann, dated 8/31/2020, WE MOVE the City Administration direct the Department of Transportation and Engineering (DOTE) to conduct a parking analysis of the Madisonville Neighborhood Business District (generally highlighted area of the attached map). The data should include - as closely as possible - the number of public and private parking spots available in the immediate, walkable area after phase I, II, and III of the Ackerman Group's (developer) project at Madison & Whetsel are completed.

The Department of Transportation & Engineering (DOTE) worked with the Department of Community & Economic Development (DCED) and Buildings & Inspections (B&I) to provide the data in this report.

DOTE calculated the number of on-street parking spaces in the area that could likely be used by patrons of existing businesses and the new development in the area. There are approximately 102 on-street parking spaces plus 8 loading spaces that can be used for parking in the evenings.

There are approximately 439 off-street parking spaces for the Madison & Whetsel Ackerman Group's development projects. These spaces breakdown as follows:

- Phase I (Primarily SW and NW Blocks)
 - o Approximately 104 private spaces located behind the new construction building on the SW block.
 - o Approximately 70 public spaces located in front of the Madison Center building on the NW block.
 - o Approximately 29 public spaces at the NW corner of Sierra and Whetsel.
- Phase IIA (NE Block)
 - o Approximately 116 private spaces behind the new construction building.
- Phase IIB (SE Block)
 - o Approximately 93 private spaces located behind the new construction building.
- Future Proposals not yet finalized

- Approximately 27 public spaces located behind the Madison Center building on the NW block.
- Additional parking in the NE block at the Whetsel and Sierra intersection (number of spaces and private vs. public TBD).

Parking requirements are determined by the zoning of the property and any variances must be approved by Zoning Administration. Attached to this report are documents related to the parking requirements associated with the Ackermann's Group development in the study area.

City staff will continue to work with the developer and the Madisonville Community Council to address the parking concerns in the area.

Attachments

cc: John S. Brazina, Director, Transportation and Engineering John B.

DECISION
OFFICE OF ZONING HEARING EXAMINER
CITY OF CINCINNATI
DATE OF DECISION: MARCH 31, 2020

APPLICANT: MADISONVILLE PHASE III LLC
5801 MADISON ROAD
CINCINNATI, OHIO 45227

OWNER: MADISONVILLE PHASE III LLC
5801 MADISON ROAD
CINCINNATI, OHIO 45227

CASE TYPE: VARIANCE & USE PERMIT

CASE NO.: ZHUV200002

PROPERTY: 4930 WHETSEL AVENUE

SUMMARY OF REQUEST:

Madisonville Phase III LLC. (“Owner”) owns the property commonly known as 4930 Whetsel Avenue, Cincinnati, Ohio (“Property”). Madisonville Phase III LLC. (“Applicant”) requests several variances, use permits and a use variance to develop a 4-story mid rise building type that includes mixed use of apartment units, parking spaces, and various commercial uses, including cafes and outdoor eating and drinking areas.

SUMMARY OF DECISION:

The Applicant’s requests are **APPROVED** subject to the conditions provided below.

PUBLIC HEARING:

After reviewing the application and materials submitted by the Applicant and other concerned persons and visiting the Property and surrounding area, David Sturkey, the Zoning Hearing Examiner, conducted a public hearing on the application, prior notice of the time and place of the hearing having been published in *The City Bulletin* and mailed to the Applicant and to abutting property owners and other interested parties.

The hearing was held on March 4, 2020 at 12:00 pm. A recording was made of the hearing and is available for review and transcription.

THE RECORD:

1. Application Materials and Written Statement
2. Site Plans and Drawings
3. MSD Comment- No Objection
4. Testimony of Dobbs Ackermann
5. Testimony of Casey Ward
6. Testimony of Bob Beetsch
7. Testimony of Chris Breda
8. Testimony of Kate Botos
9. Testimony of Henry Sheldon
10. Department of Buildings and Inspections Staff Report
11. Hearing Sign-In Sheet
12. Recording of Hearing Held on March 4, 2020

FINDINGS OF FACT:

1. The Property is located in a T5MS (Main Street) and T5MS-O (Main Street-Open) and T4N.SF (Neighborhood Small Footprint) Transect Zones in the Madisonville neighborhood.¹
2. The Property consists of multiple parcels comprising approximately 95% of the block bounded by Madison Road to the north, Whetsel Avenue to the west, Prentice Street to the south, and Ward Street to the east. The Property currently contains several buildings along Madison Road and Whetsel Avenue. Most of the Property lies in the T5MS and T5MS-O transects.
3. This project is the third phase of the Owner's multi-phase project to add mixed use of apartment units on the upper three floors and various commercial uses on the ground floor. A second structure consistent with the form of a Main Street Mixed-Use building type, is proposed to the east of the larger building along the Madison Road frontage.
4. The Applicant requests the following relief for the proposal:
 - A numeric variance to allow more than one building type on the same parcel.²
 - A dimensional variance of 116 feet from the requirement that Mid-Rise floors 1-2 require 150 feet maximum depth to allow 266 feet proposed depth.³
 - Dimensional variances of 5 feet from the requirement that Mid-Rise floors 3+ require 65 feet maximum depth to allow 70 feet proposed depth on the Madison Road side of the building and the Whetsel Avenue side of the building.⁴

¹ Cincinnati Municipal Code 1400-17 and Map 1400-17.

² Cincinnati Municipal Code 1703-2.80

³ Cincinnati Municipal Code 1703-3.160(C).

⁴ *Id.*

- A dimensional variance of 92.84 feet from the requirement that a Mid-Rise building type have a maximum lot width of 200 feet to allow a proposed lot width of 292.84 feet.⁵
- A dimensional variance of 21.54 feet, 6.26 feet, and 5.25 feet from the requirement that principal structures must be built to Line/ROW, to allow a 21.54 feet setback off the Whetsel Avenue frontage, a 6.26 feet setback off the Madison Road frontage, and a 5.25 feet setback off the Madison Road Street frontage for the Main Street mixed-use building.⁶
- Dimensional variances of 13.21, 18, and 1.6 feet from the required 50 feet maximum distance between entries to ground floor uses to allow doors that are 63.21, 68, and 51.6 feet from each other.⁷
- A dimensional variance of 2.33 feet from the requirement that the ground floor finish level may be 6 feet maximum above street center line to allow a maximum finish level of 2.83 feet.⁸
- A dimensional variance of 36 feet from the requirement that parking lots have a minimum setback of 40 feet to allow a 4 feet setback along the Prentice Street frontage of the double frontage parcel.⁹
- A variance from the requirement that parking lots adjacent to T4 districts have a 6 feet screen fence or evergreen hedge to allow a deciduous tree canopy and an understory of 127 evergreen shrubs in lieu of the requirement.¹⁰
- A dimensional variance of 8.17 feet from the requirement that parking lots larger than one-quarter acre shall be divided into smaller parking areas with planted landscape areas with a minimum width of 15 feet between them to minimize the perceived scale of the total field of stalls to allow a landscape area with a width of 6.83 feet.¹¹
- A use variance to allow proposed Office Use on the Madison Road frontage of the Main Street Mixed-Use building where such use is not allowed on the ground floor, except when located behind an allowed ground floor use.¹²

⁵ Cincinnati Municipal Code 1703-2.80(C).

⁶ Cincinnati Municipal Code 1703-2.80(E).

⁷ Cincinnati Municipal Code 1703-2.80(D).

⁸ *Id.*

⁹ Cincinnati Municipal Code 1703-2.80(F).

¹⁰ Cincinnati Municipal Code 1703-5.50(F)(7)(b)

¹¹ Cincinnati Municipal Code 1703-5.50(F)(9).

¹² Cincinnati Municipal Code 1703-2.80(I)

- A use permit permitting Alcoholic Beverage Sales at several potential tenant spaces in both of the proposed buildings.¹³
 - A use permit permitting an Outdoor Eating and Drinking Area within 100 feet of a T3 or T4 zone.¹⁴
 - A use permit permitting Outdoor Entertainment within 500 feet of a T3 or T4 zone.¹⁵
5. The Applicant's representative, Dobbs Ackermann, testified that the goal of the project is to stimulate the commercial district while creating business growth and increasing the housing market in the Madisonville neighborhood. Mr. Ackermann testified that the project has been in planning for 10 years and has been community focused.
 6. The Applicant's representative, Chris Breeda, along with Mr. Ackermann, testified in detail why each individual variance request was necessary for the project.
 7. Henry Sheldon, a Plans Examiner in the Cincinnati Zoning Department, testified that the Applicant's plans for parking capacity for the project conform to the requirements in the Zoning Code.
 8. Bob Beetsch, from the Community and Economic Development division of the City of Cincinnati, testified that he was in favor of approving the project. He testified that the existing buildings on the Property were demolished and the Applicant was selected through a competitive RFP process to develop the Property.
 9. Mr. Ackermann stated it is necessary to include an outdoor space, outdoor entertainment and ability to serve alcohol to make the project successful. He stressed that it would set the tone for the Property and will encourage a downtown environment.
 10. Kate Botos, a representative of the Madisonville Community Council, testified in opposition to the project. Ms. Botos testified that the parking capacity was inadequate and that there was an earlier agreement with the Applicant to allow more public parking that is not satisfied under this plan.
 11. The Department of Buildings and Inspections provided a staff report on the Applicant's application for zoning relief and recommended approval of the application based on several conditions contained in the report.

CONCLUSIONS OF LAW:

¹³ *Id.*

¹⁴ Cincinnati Municipal Code 1703-5.100(I).

¹⁵ *Id.*

Standards for Zoning Relief

1. Under the Zoning Code, a property owner seeking a variance or a use permit must make two showings. First, the property owner must demonstrate that its project conforms to all applicable laws, ordinances, and regulations, and is in the public interest. The determination is made after weighing the factors established by the Zoning Code.¹⁶
2. Those seeking a variance must demonstrate that the variance is neither contrary to the intent and purpose of the Zoning Code and the underlying zoning district, nor detrimental or injurious to the public health, safety, and general welfare.¹⁷ This requires evidence that:
 - a. A condition giving rise to the need for a variance was not created by the property owner or its predecessors; and
 - i. In light of the condition giving rise to the need for a variance, the strict application of the provisions or requirements of the Zoning Code is unreasonable and would result in practical difficulties; or
 - ii. A variance is necessary for the preservation and enjoyment of a substantial property right by owners of other properties in the same district or vicinity.
3. Those seeking a use permit must then demonstrate that:
 - a. A proposed use is listed in the applicable zoning district use regulations;
 - b. The proposed use is appropriately located, designed, and configured; and
 - c. Any adverse impacts on the surrounding area have been minimized.¹⁸
4. To show it is entitled to a use variance, a property owner must demonstrate that it will suffer unnecessary hardship if strict compliance with the terms of the Zoning Code is required.¹⁹ This requires clear and convincing evidence that:
 - a. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district;
 - b. The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;
 - c. The hardship condition is not created by actions of the property owner;

¹⁶ Cincinnati Municipal Code 1445-13.

¹⁷ Cincinnati Municipal Code 1445-15.

¹⁸ Cincinnati Municipal Code 1445-05 and 1445-21.

¹⁹ Cincinnati Municipal Code 1445-19.

- d. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - e. The granting of the variance will not adversely affect the community character, public health, safety or general welfare;
 - f. The variance will be consistent with the general spirit and intent of the Zoning Code; and
 - g. The variance sought is the minimum that will afford relief to the property owner.
5. This decision first addresses whether the Applicant's project conforms to all applicable laws, ordinances, and regulations, and is in the public interest. It then addresses whether the Applicant satisfied the criteria specific to variances, use permits, and a use variance.

The Public Interest

6. The Applicant demonstrated that the project conforms to all applicable laws, ordinances, and regulations, and is in the public interest. Aside from the zoning regulations implicated in this matter, no evidence demonstrates that the project violates any applicable law, ordinance, or regulation. Further, taking into consideration the relevant factors, the project is designed to maximize the public interest and private benefits.

The proposal is compatible with the intent and purposes of the T5MS and T5MS-O Transect Zones and the general intent and purposes of the Form Based Code. The Applicant accomplished the transect zones' goals by substantially improving the Property with development specifically targeted at supporting the surrounding residential population with new residential and commercial uses. The project fits the character of the neighborhood and blends well with the many other types of commercial and residential uses present in the area. While the project requires zoning relief, the relief is necessary to satisfy off-street parking requirements and to meet the unique challenges of the Form Based Code that primarily focuses on new construction on smaller lots between existing buildings and does not contemplate large-scale projects like the proposal submitted by the Applicant.

The project creates no foreseeable adverse effects for the community, and it will hopefully serve as a catalyst for new construction in the neighborhood. While the concerns of Ms. Botos may be valid, the Applicant's have met the requirements under the code regarding parking capacity. The scope of Ms. Botos concerns appeared to focus on a disagreement with the Applicants that was not directly related to the specific zoning variances that the Applicants are now requesting. Thus, she provided inadequate evidence and testimony to deny any one variance request.

While the proposal is not expected to cause issues with traffic, parking, or public services, the proposal will provide important public and private benefits. In addition to the obvious benefits the Applicant will enjoy from the project, the Applicant's investment in the Property will bring economic benefits to its neighbors and the public by creating jobs for local neighborhood residents and by increasing the value of neighboring properties and the resultant property tax receipts. Most importantly, the project revitalizes the Property and puts the Property, which is located in the heart of the Madisonville Business District, into productive use while providing important new residential and commercial options for residents.

Variance Analysis

7. The Applicant also satisfied the criteria for variances by demonstrating that the requested variances are neither contrary to the intent and purposes of the Form Based Code and the T5MS or T5MS-O Transect Zones nor detrimental or injurious to the public health, safety, and general welfare. The Applicant satisfied those criteria by demonstrating that owing to special circumstances not created by it or its predecessors, the strict application of the provisions or requirements of the Zoning Code are unreasonable and would result in practical difficulties.²⁰ The Applicants thoroughly outlined why each variance is necessary and satisfies the criteria below.
 - a. *Hardship*. The Applicant met the first variance criterion by demonstrating that the conditions requiring relief in this matter were not created by the Owner or its predecessors. The Applicant cannot reactivate the Property in an effective matter without relief and satisfy off-street parking requirements due to the Property's unique size and shape.
 - b. *Unreasonable Application and Practical Difficulties*. The Applicant also demonstrated that strictly applying the Zoning Code to the project is unreasonable and will cause it practical difficulties. Weighing the applicable factors articulated by the Ohio Supreme Court leads to the conclusion that the requested variances are justified because although they are substantial, the Applicant cannot obviate the predicament without relief, the project complies with the spirit and intent of the Zoning Code, will not substantially alter the character of the neighborhood or cause adjoining properties to suffer a substantial detriment.²¹
 - i. *Spirit and Intent of the Form Based Code and Neighborhood Character*. As discussed in the previous section of this decision, the proposal complies with the spirit and intent of the Form Based Code and the character of the Madisonville neighborhood.
 - ii. *Owner's Ability to Obviate the Predicament without a Variance*. The Applicant cannot reactivate the Property in an effective manner without

²⁰ Cincinnati Municipal Code 1445-15.

²¹ *Duncan v. Middlefield*, 23 Ohio St.3d 83(1986).

relief and satisfy off-street parking requirements due to the Property's unique size and shape.

- iii. *Substantial.* While the variances sought are substantial, the proposal will play an important role in the future development of the Madisonville neighborhood by providing valuable infill development to the area that will attract new residents and customers to this important business district in the City.
- iv. *Detriment to Adjoining Properties.* The project will not impose a substantial detriment on adjoining properties. Instead, the project will reactivate vacant land in the heart of Madisonville with new construction that will increase the value of neighboring properties and attract new residents and customers to the business district.

Use Permit Analysis

8. The Applicant demonstrated that it is entitled to the requested use permits by demonstrating that the requested uses are listed in the applicable Transect Zones use regulations; the uses are appropriately located, designed, and configured; and any adverse impacts on the surrounding area have been minimized.

Listed in the Transect Zones Regulations. The Applicant demonstrated that the requested uses qualify as uses that require use permits under the applicable Transect Zones use regulations.²²

Appropriately Located, Designed, and Configured. The Applicant demonstrated that the proposed project is appropriately located, designed, and configured. The project will help rejuvenate the neighborhood with new restaurants with outdoor dining and drinking options and entertainment. The restaurant use will support neighborhood residents as well as local office, retail and commercial businesses. Most importantly, the project will reactivate a strategically located Property in the Madisonville Business District.

Minimization of Adverse Effects. The Applicant demonstrated that the proposed project is designed to limit adverse effects on surrounding properties. While the establishment does not create any foreseeable adverse effects for the community, it will benefit the community by reactivating a vacant property, creating jobs for the neighborhood and by providing an additional social option for local residents and businesses.

²² Cincinnati Municipal Code 1703-2.80(I).

Use Variance Analysis

9. The Applicant provided clear and convincing evidence that supports the criteria for a use variance.
 - a. *No Economically Viable Use.* The evidence submitted clearly and convincingly demonstrates that the Property cannot be put to any economically viable use under any of the permitted uses in the T5MS or T5MS-O Transect Zone, and that the only economically viable use option is to use the Property for Mixed-Use commercial and residential apartments. The Owner has done significant due diligence as to the economic viability of the Property and the development. Casey Ward, a representative of Midland Retail, testified at length about the research and investment to ensure that this project is tailored to become an economically viable development. Further, the Applicants have aggressively marketed the Property to potential restaurant and retail tenants for approximately 6 months, however, due to the early stages of redevelopment, most businesses have been reluctant to sign leases on the Property. Without the Applicant's significant investment and design of the project, the Property would likely not be able to be put to productive use.
 - b. *Unique Condition and Hardship.* The evidence clearly and convincingly demonstrates that the Applicant's request for a use variance stems from the unique condition of the Property that was not created by the Owner's actions. The current market conditions limit what uses would be economically feasible on the site. Specifically, the retail market study that was performed shows a vacancy rate in the retail trade area above 50%. This condition, not the Owner's actions, gives rise to the use variance request as permitted uses may not be economically viable for the Property.
 - c. *Impact on Community Character and Adverse Effects.* The evidence clearly and convincingly proves that a use variance will not adversely affect the community character, public health, safety, or general welfare, or the right of adjacent property owners or residences. Instead, granting relief should positively affect the community by activating the building, lifting the Property's value and lifting the value of neighboring properties. There was testimony presented at the hearing that this project may increase the strain on street parking in the immediate area. However, there was also evidence presented that the Applicants own or can acquire several alternative parking options within 600 feet of the development. Further, although street parking for nearby residents was raised as a concern at the hearing, the Applicant's satisfied all parking capacity requirements under the Zoning Code.
 - d. *Consistent with Spirit and Intent of Zoning Code.* The evidence clearly and convincingly shows that the requested use variance is consistent with the spirit and intent of the Form Based Code. Although the use on the ground floor of the building will be for residential apartments, the building will be occupied. Having the building occupied will help to draw potential retail and restaurant tenants as

well as members of the community to the Property and the Madisonville neighborhood.

- e. *Minimum Relief Necessary.* Finally, the evidence clearly and convincingly demonstrates that a use variance is the minimum necessary to afford relief to the Owner. Without a use variance, the building on the Property may become vacant making it more difficult to attract potential retail and restaurant tenants to the Property.

DECISION:

1. The Applicant's request for a numeric variance to allow more than one building type on the same parcel is hereby **APPROVED**.
2. The Applicant's request for a dimensional variance of 116 feet from the requirement that Mid-Rise floors 1-2 require 150 feet maximum depth to allow 266 feet proposed depth is hereby **APPROVED**.
3. The Applicant's request for dimensional variances of 5 feet from the requirement that Mid-Rise floors 3+ require 65 feet maximum depth to allow 70 feet proposed depth on the Madison Road side of the building and the Whetsel Avenue side of the building is hereby **APPROVED**.
4. The Applicant's request for a dimensional variance of 92.84 feet from the requirement that a Mid-Rise building type have a maximum lot width of 200 feet to allow a proposed lot width of 292.84 feet is hereby **APPROVED**.
5. The Applicant's request for a dimensional variance of 21.54 feet, 6.26 feet, and 5.25 feet from the requirement that principal structures must be built to Line/ROW, to allow a 21.54 feet setback off the Whetsel Avenue frontage, a 6.26 feet setback off the Madison Road frontage, and a 5.25 feet setback off the Madison Road Street frontage for the Main Street mixed-use building is hereby **APPROVED**.
6. The Applicant's request for dimensional variances of 13.21, 18, and 1.6 feet from the required 50 foot maximum distance between entries to ground floor uses to allow doors that are 63.21, 68, and 51.6 feet from each other is hereby **APPROVED**.
7. The Applicant's request for a dimensional variance of 2.33 feet from the requirement that the ground floor finish level may be 6 feet maximum above street center line to allow a maximum finish level of 2.83 feet is hereby **APPROVED**.
8. The Applicant's request for a dimensional variance of 36 feet from the requirement that parking lots have a minimum setback of 40 feet to allow a 4 feet setback along the Prentice Street frontage of the double frontage parcel is hereby **APPROVED**.

9. The Applicant's request for a variance from the requirement that parking lots adjacent to T4 districts have a 6 feet screen fence or evergreen hedge to allow a deciduous tree canopy and an understory of 127 evergreen shrubs in lieu of the requirement is hereby **APPROVED**.
10. The Applicant's request for a dimensional variance of 8.17 feet from the requirement that parking lots larger than one-quarter acre shall be divided into smaller parking areas with planted landscape areas with a minimum width of 15 feet between them to minimize the perceived scale of the total field of stalls to allow a landscape area with a width of 6.83 feet is hereby **APPROVED**.
11. The Applicant's request for a use variance to allow proposed Office Use on the Madison Road frontage of the Main Street Mixed-Use building where such use is not allowed on the ground floor, except when located behind an allowed ground floor use is hereby **APPROVED**.
12. The Applicant's request for a permit permitting Alcoholic Beverage Sales at several potential tenant spaces in both of the proposed buildings is hereby **APPROVED**.
13. The Applicant's request for a use permit permitting an Outdoor Eating and Drinking Area within 100 feet of a T3 or T4 zone is hereby **APPROVED**.
14. The Applicant's request for a use permit permitting Outdoor Entertainment within 500 feet of a T3 or T4 zone is hereby **APPROVED**.

SUBJECT TO THE FOLLOWING CONDITIONS:

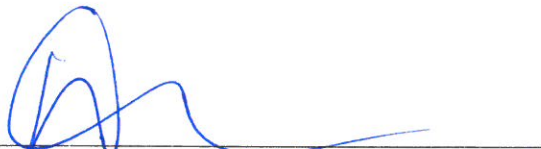
The foregoing decision is subject to the following conditions which are found to be in the public interest and necessary to mitigate any harmful effects:

1. The Applicant must note the zoning hearing case number from this decision on any building permits concerning the project.
2. The project shall be constructed in accordance with the plans stamped FINAL APPROVED PLAN by the Zoning Hearing Examiner and forwarded to the Business Development and Permit Center.
3. All building permits necessary for the prosecution of work shall be obtained within two years from the date of this decision.
4. The project must meet all applicable codes and regulations of the City of Cincinnati.

5. Except as otherwise provided in this decision, the project shall be constructed, configured and operated consistent with the testimony, representations and stipulations of the Applicant, the Owner and any person acting on his behalf at the hearing on this matter.

6. If the Applicant and the Owner do not meet all of the conditions required by this decision within the timeframes provided, this decision shall have no further force or effect. If no timeframe is provided for meeting a condition, the condition must be met prior to the time that all building permits issued in connection with the development are closed.

ORDERED THIS 31st day of March 2020.



David Sturkey
Zoning Hearing Examiner

APPEALS:

This decision may be appealed to the Zoning Board of Appeals, pursuant to Chapter 1449 of the Zoning Code. Appeals must be filed within 30 days of the date of the mailing of this decision.

TRANSMITTED this 31st day of March 2020., by regular mail to:

**MADISONVILLE PHASE III LLC.
5801 MADISON ROAD
CINCINNATI, OHIO 45227**

TRANSMITTED THIS 31st day of March 2020., by interdepartmental mail to Rodney Ringer at the Permit Center.

ZONING MEMORANDUM RE PARKING COMPLIANCE

December 11, 2020

To Whom It May Concern:

This Memorandum serves as confirmation that the following phased developments in Madisonville by Ackermann Group are compliant with the parking standards required by Title XVII – Land Development Code of the City of Cincinnati.

Phase 1 - 5801 Madison Road (Parcel 036-0002-0188)

Phase 2 - 5912 Madison Road (Parcel 035-0003-0218)

Phase 3 – 4930 Whetsel Avenue and 5921 Madison Road (Consolidated Parcels 036-0002-0071, -0072, -0073, -0074, -0075, -0076, -0078, -0079, -0080, -0081, -0082, -0083, -0138, -0139, -0143, -0147, -0173, -0180, -0182).

The Land Development Code utilizes a type of zoning called Form-Based Code, which allows for specific forms of buildings and land uses in respective districts, known as transects. Phase 1 is located in T5MS (Main Street) and T4N.MF-O transects, Phase 2 is located in T5MS and T5MS-O transects, and Phase 3 is located in T5MS-O and T4N.SF transects.

Zoning Staff previously issued Certificates of Zoning Compliance for Phase 1 (2020P02719) and Phase 2 (2020P02720). Those separate documents have been provided and are fully self-explanatory as to Phases 1 & 2.

The remainder of this Memorandum confirms parking compliance for Phase 3 in an identical methodology.

Form-Based Code Parking Regulations

Per Section 1703-2.80(F), Residential Use requires a minimum of 1 parking space per 1500 square feet, Service or Retail Use requires a minimum of 2 parking spaces per 1000 square feet after an initial exemption of 5,000 square feet, and Community Facilities or Assembly Uses (without fixed seats) require a minimum of 1 parking space per 300 square feet.

Per Section 1703-5.50(E)(1) [On-Street Parking], on-street parking spaces adjacent to the lot may count towards the required non-residential use parking standards.

Parking Calculations

The property will contain 67,020 square feet of gross residential use, including related amenities. $67,020/1,500 = 45$ required residential parking spaces. The accessory parking lot provides 87 residential parking spaces, thus resulting in a surplus of 42 on-site residential parking spaces.

The property will contain 7,928 square feet of gross commercial use. $7,928 - 5,000$ [exemption] = 2,928 square feet. $2,928/1,000 = 3 \times 2$ per = 6 required commercial parking spaces. There are 47 adjacent on-street parking spaces, thus resulting in a surplus of 41 on-street parking spaces.

The property will contain 8,762 square feet of public/assembly use for a library branch. $8,762 /300 = 29$ required parking spaces. The accessory parking lot provides 8 on-site spaces behind the library, accessed off Prentice Street and separated by a gated entry for the aforementioned residential parking. The net difference is 21 required parking spaces. There are 41 remaining adjacent on-street parking spaces, thus resulting in a total surplus of 20 on-street parking spaces.

Finding

The proposed parking is compliant with the City of Cincinnati Land Development Code.

Respectfully Submitted,

Tre Sheldon
Zoning Plan Examiner

CERTIFICATE OF COMPLIANCE
Office of the Zoning Administrator



Date: 3/27/20 Application #: 2020P02720 Zoning District: T5MS/T5MS-O

Brian Henning
5801 Madison Road
Cincinnati, OH 45227

Location/Building Address: 5912 Madison Road, Cincinnati, OH 45227

Tax Parcel ID # (s): 035-0003-0218

This document is to certify that the premises described conform substantially to the provisions of the Land Development Code of the City of Cincinnati as to parking requirements.

Form-Based Code Parking Regulations

Per Section 1703-2.80(F), Residential Use requires a minimum of 1 parking space per 1500 square feet and Service or Retail Use requires a minimum of 2 parking spaces per 1000 square feet after an initial exemption of 5,000 square feet.

Per Section 1703-5.50(E)(1) [On-Street Parking], on-street parking spaces adjacent to the lot may count towards the required non-residential use parking standards.

Per Section 1703-5.50(E)(2) [Shared Parking], for two use types, shared parking shall be calculated as follows. The sum of the required parking for the two use types shall be divided by the factor listed in the table below. The required number of parking spaces shall be rounded up to the closest whole number. If the use is not listed below then the shared parking shall be based on Section 1703-5.50(E)(3) [Shared Parking Study].

Table: 1703-5.50.B: Shared Parking Factor for Two Uses				
	Residential	Lodging	Office	Retail
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail	1.2	1.3	1.2	1.0

Parking Calculations

The property will contain 100,622 square feet of gross residential use, including related amenities. $100,622/1,500 = 67$ required residential parking spaces. The accessory parking lot provides 116 parking spaces, thus resulting in a surplus of 49 parking spaces.

CERTIFICATE OF COMPLIANCE
Office of the Zoning Administrator



The property will contain 7,197 square feet of gross non-residential use. $7,197 - 5,000$ [exemption] = 2,197 square feet. $2,197/1,000 = 2.2 \times 2 = 4$ required non-residential parking spaces. There are 40 adjacent on-street parking spaces, thus resulting in a surplus of 36 parking spaces.

Finding

Zoning Staff notes that Applicant was not required to conduct a Shared Parking Study because the provided parking meets compliance. Staff further notes that Applicant did not invoke the Shared Parking Factor as Applicant eventually chose to reserve the accessory parking lot exclusively for residential use.

Therefore, the proposed parking is compliant with the City of Cincinnati Land Development Code.

APPROVED BY:

A handwritten signature in cursive script that reads "Emily S. Ahouse".

Emily S. Ahouse
Interim Zoning Administrator

HES:ESA

CERTIFICATE OF COMPLIANCE
Office of the Zoning Administrator



Date: 3/27/20 Application #: 2020P02719 Zoning District: T5MS/T5MS-O

Brian Henning
5801 Madison Road
Cincinnati, OH 45227

Location/Building Address: 5801 Madison Road, Cincinnati, OH 45227

Tax Parcel ID # (s): 036-0002-0188

This document is to certify that the premises described conform substantially to the provisions of the Land Development Code of the City of Cincinnati as to parking requirements.

Form-Based Code Parking Regulations

Per Section 1703-2.80(F), Residential Use requires a minimum of 1 parking space per 1500 square feet and Service or Retail Use requires a minimum of 2 parking spaces per 1000 square feet after an initial exemption of 5,000 square feet.

Per Section 1703-5.50(E)(1) [On-Street Parking], on-street parking spaces adjacent to the lot may count towards the required non-residential use parking standards.

Per Section 1703-5.50(E)(2) [Shared Parking], for two use types, shared parking shall be calculated as follows. The sum of the required parking for the two use types shall be divided by the factor listed in the table below. The required number of parking spaces shall be rounded up to the closest whole number. If the use is not listed below then the shared parking shall be based on Section 1703-5.50(E)(3) [Shared Parking Study].

	Residential	Lodging	Office	Retail
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail	1.2	1.3	1.2	1.0

Parking Calculations

The property will contain 106,019 square feet of gross residential use, including related amenities. $106,019/1,500 = 71$ required residential parking spaces. The accessory parking lot provides 104 parking spaces, resulting in a surplus of 33 parking spaces.

CERTIFICATE OF COMPLIANCE
Office of the Zoning Administrator

The property will contain 22,736 square feet of gross non-residential use. $22,736 - 5,000$ [exemption] = 17,736 square feet. $17,736/1,000 = 17.7 \times 2 = 35$ required non-residential parking spaces. There are 35 adjacent on-street parking spaces, thus meeting compliance.

Finding

Zoning Staff notes that Applicant was not required to conduct a Shared Parking Study because the provided parking meets compliance. Staff further notes that Applicant did not invoke the Shared Parking Factor as Applicant eventually chose to reserve the accessory parking lot exclusively for residential use.

Therefore, the proposed parking is compliant with the City of Cincinnati Land Development Code.

APPROVED BY:



Emily S. Ahouse
Interim Zoning Administrator

HES:ESA

City of Cincinnati



801 Plum Street, Suite 346-A
Cincinnati, Ohio 45202

Phone (513) 352-5205
Email Jan-Michele.Kearney@
cincinnati-oh.gov
Web www.cincinnati-oh.gov

2021 00203

Jan-Michele Lemon Kearney
Councilmember

MOTION

WE MOVE that Councilmember Betsy Sundermann be appointed Vice Chair of the Neighborhoods Committee.

Jan-Michele Lemon Kearney

Councilmember Jan-Michele Lemon Kearney

808/0008

Date: February 3, 2021

202100469

To: Mayor and Members of City Council
From: Paula Boggs Muething, City Manager
Subject: EMERGENCY ORDINANCE – CONSENT LEGISLATION FOR SIDEWALK
CONSTRUCTION ON READING ROAD

Attached is an emergency ordinance captioned as follows:

AUTHORIZING the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation in order to facilitate the installation of sidewalks and access ramps, which will be in compliance with the Americans with Disabilities Act, on the western side of Reading Road (U.S. Route 42), in the Roselawn neighborhood, between Sunnybrook Drive and the corporation line with Sycamore Township, including any installations necessary to connect the sidewalk to the eastern side of Reading Road (U.S. Route 42) in the City of Reading.

The City is the owner of certain public right-of-way on the western side of Reading Road (U.S. Route 42), in Roselawn, between Sunnybrook Drive and the corporation line with Sycamore Township, at which the Ohio Department of Transportation (“ODOT”) intends to install new sidewalk and access ramps that will comply with the Americans with Disabilities Act (PID No. 111482) (the “Project”).

No City right-of-way is required for the Project other than temporary access to City parcels and there is no change in use to City streets arising from the Project.

The State of Ohio will provide 100% of the eligible cost of the work.

The State of Ohio has requested that all necessary right-of-way in the Project area be made available for the Project in accordance with current state and federal regulations.

The City’s Department of Transportation & Engineering has reviewed and approved the proposed project.

Any changes to the street layout or right-of-way are subject to review and approval by the City Planning Commission, but no such changes have been identified at this stage of the Project.

The City will continue its existing maintenance responsibilities of the right-of-way upon completion of the Project.

The reason for the emergency is the immediate need to expedite the highway project and promote safety along Reading Road (U.S. Route 42) within the City of Cincinnati at the earliest possible date.

The Administration recommends passage of the attached emergency ordinance.

cc: John S. Brazina, Director, Transportation and Engineering

EMERGENCY

City of Cincinnati

JRS
AWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to take all necessary and proper actions to cooperate with the Director of the Ohio Department of Transportation in order to facilitate the installation of sidewalks and access ramps, which will be in compliance with the Americans with Disabilities Act, on the western side of Reading Road (U.S. Route 42), in the Roselawn neighborhood, between Sunnybrook Drive and the corporation line with Sycamore Township, including any installations necessary to connect the sidewalk to the eastern side of Reading Road (U.S. Route 42) in the City of Reading.

WHEREAS, the City is the owner of the western side of Reading Road (U.S. Route 42), in the Roselawn neighborhood, between Sunnybrook Drive and the corporation line with Sycamore Township in the City of Cincinnati at which the Ohio Department of Transportation (“ODOT”) intends to install sidewalks and access ramps that will comply with the Americans with Disabilities Act (PID No. 109354) (the “Project”); and

WHEREAS, except as needed for temporary access, no transfer of City right-of-way is required for the Project, and no change in the use of City streets is expected to arise from the Project; and

WHEREAS, the State of Ohio shall provide 100% of the eligible cost of the Project; and

WHEREAS, ODOT has requested that all necessary rights of way in the Project area be made available for the Project in accordance with current state and federal regulations; and

WHEREAS, the City’s Department of Transportation & Engineering has reviewed and approved the proposed Project; and

WHEREAS, the extent of City streets and changes in their use are subject to review and approval by the City Planning Commission, but no changes requiring the commission’s review have been identified at this stage of the Project; and

WHEREAS, upon completion of the Project, ODOT and the City desire for the City to continue its existing maintenance responsibilities for the rights of way in the Project area, as applicable, and other duties required by applicable state and federal law; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City of Cincinnati consents to and shall cooperate with the Director of the Ohio Department of Transportation (“ODOT”), on behalf of the State of Ohio, to facilitate the installation of sidewalks and access ramps, which will be in compliance with the Americans with

Disabilities Act, in the City of Cincinnati, located on the western side of Reading Road (U.S. Route 42), in the Roselawn neighborhood, between Sunnybrook Drive and the corporation line with Sycamore Township including any installations necessary to connect the sidewalk to the eastern side of Reading Road (U.S. Route 42) in the City of Reading (PID No. 109354) (the “Project”).

Section 2. That the State of Ohio will assume and bear 100% of the cost of the improvements proposed as part of the Project.

Section 3. That the City shall bear 100% of the cost of those features, if any, requested by the City that ODOT and the Federal Highway Administration determine to be unnecessary for the Project; as of the date of this ordinance, no such features have been identified.

Section 4. That the City agrees to make available to ODOT all City-owned rights-of-way required for the Project, including utility relocation, in accordance with current state and federal regulations and subject to any additional City approvals required for the encumbrance or acquisition of City property or change in use of City streets. The City acknowledges that all utility accommodation, relocation, and reimbursement in connection with the Project will comply with the current provisions of 23 C.F.R. 645 and the ODOT Utilities Manual.

Section 5. That, from time to time, change orders and extra-work contracts may be required to fulfill the Project and ODOT shall provide written notice to the City, which shall process such as needed and contribute the City’s share of the costs of those items; as of the date of this ordinance, no such costs have been identified.

Section 6. That, to the extent applicable and unless otherwise agreed, the City upon completion of the Project shall: (1) provide adequate maintenance for the Project in accordance with all applicable state and federal law, including, but not limited to, 23 U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for any City maintenance responsibilities in connection with the Project; (3) to the extent required by state and federal law, maintain the right

of way and keep it free of obstructions; and (4) hold said right of way inviolate for public highway purposes.

Section 7. That the City Manager is hereby authorized to enter into any agreements and process any change orders or extra-work orders connected thereto with the Director of ODOT, or ODOT-prequalified consultants, as necessary to complete the Project in accordance with the terms of this ordinance.

Section 8. That the City Manager is further authorized to execute any documents, upon the request of ODOT, necessary to allow ODOT to recover damages or exercise its rights and remedies under any contracts arising from any errors or omissions of any contractors or consultants.

Section 9. That the City Manager and the appropriate City officials are hereby authorized to take all necessary and proper actions to cooperate with the Director of ODOT to facilitate the Project.

Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to expedite the highway project and promote highway safety along Reading Road (U.S. Route 42) within the City of Cincinnati at the earliest possible date.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk