



EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_

-2022

**AUTHORIZING** the construction of a new congregate-housing facility containing up to forty-four dwelling units on the real property located at 2000 Dunlap Street in the Over-the-Rhine neighborhood, **NOTWITHSTANDING** the density and setback regulations contained in Section 1410-07, "Development Regulations," of Cincinnati Municipal Code Chapter 1410, "Urban Mix District," and **NOTWITHSTANDING** the requirement for a certificate of appropriateness contained in Section 1435-09, "Alterations and Demolitions; Certificates of Appropriateness; Minimum Maintenance," of Cincinnati Municipal Code Chapter 1435, "Historic Preservation."

WHEREAS, Over-the-Rhine Community Housing ("Owner") owns certain real property currently utilized as a public surface parking lot, which real property is commonly known as 2000 Dunlap Street (Ham. Co. PID 096-0005-0116-00) and is located in the Over-the-Rhine neighborhood ("Property"); and

WHEREAS, the Property is presently located in the UM, "Urban Mix," zoning district and the Over-the-Rhine Historic District; and

WHEREAS, the Owner seeks to construct a new four-story, congregate-housing facility with forty-four dwelling units maintained as affordable units in compliance with the Low-Income Housing Tax Credit program ("Project"), which building would also include communal dining facilities and certain other facilities for the use and benefit of its residents; and

WHEREAS, the Project's exterior facade will incorporate various materials and colors, with a base of a light gray brick on the first floor topped with a cast-stone belt course, red-orange brick through the middle of the building with individual and paired window openings in horizontal and vertical alignment, and a darker brick soldier course and a heavy coping material across a majority of the top of the building; and

WHEREAS, over the course of three separate public hearings, the Historic Conservation Board reviewed the Project and considered the Owner's requests for a certificate of appropriateness and variances from the zoning code's density and setback regulations; and

WHEREAS, in a decision dated September 27, 2022, the Historic Conservation Board: (i) approved the Owner's request for a certificate of appropriateness; (ii) approved the Owner's requested zoning variance to permit a zero-foot setback along a portion of the rear yard of the Property; and (iii) denied the Owner's requested zoning variance to authorize an increase in the density of dwelling units permitted within the building ("HCB Decision"); and

WHEREAS, the Council wishes to authorize the construction of the Project and permit up to forty-four dwelling units on the Property, notwithstanding the HCB Decision denying the Owner's request for a density variance; and

WHEREAS, the Council independently finds that reducing the rear-yard setback and authorizing greater density on the Property will return the lot to a use more compatible with the Over-the-Rhine community, will facilitate the creation of new housing for underserved segments of the community, and is necessary and appropriate to further the interests of historic conservation; and

WHEREAS, the Council further finds that the Project is well-designed, that its materials, massing, scale, and overall appearance fit within the context of the Over-the-Rhine community, and that it is substantially consistent with the Over-the-Rhine Historic District Conservation Guidelines; and

WHEREAS, authorizing the construction of the Project and permitting a reduced rear-yard setback and increased density will not have an adverse effect on the architectural or aesthetic integrity of the Over-the-Rhine Historic District, the character of the area, or the public health, safety, and general welfare; and

WHEREAS, the City Planning Commission, at its regularly scheduled meeting on \_\_\_\_\_, 2022, and upon considering the factors set forth in CMC Section 111-5, recommended adoption of a notwithstanding ordinance permitting the construction of the Project on the Property; and

WHEREAS, a committee of Council held a public hearing on this ordinance following due and proper notice pursuant to CMC Section 111-5, and upon considering the factors in CMC Section 111-5 and the recommendation of the City Planning Commission, the committee approved the ordinance, finding that authorizing a reduced rear-yard setback and increased density on the Property and setting aside the requirement for a certificate of appropriateness will not have an adverse effect on the character of the area or the public health, safety, and general welfare, and further finding that it is consistent with the purposes of the CMC and the UM, "Urban Mix," zoning district; and

WHEREAS, a legislative variance authorizing a reduced rear-yard setback and increased density and setting aside the certificate of appropriateness requirement to permit the Project is consistent with all three community plans associated with the area: the *Over-the-Rhine Comprehensive Plan* (2002), which includes goals to "[e]ncourage and welcome new investment at all levels of the housing market and ensure the long-term sustainability of enough affordable housing to house current residents" and "[p]rovide appropriate housing-related services for all residents" (page 47); the *Brewery District Master Plan* (2013), which states the area "should be developed as a medium density, mixed use, pedestrian oriented area maintaining on-street parking throughout" and "[n]ew construction should be a minimum of 2 stories, and not taller than 5 stories" (page 54); and the *Mohawk Area Plan* (2021), which includes the goal to develop "a diverse and inclusive district that contains neighborhood-specific housing for all income levels"

through strategies to “[p]romote architecturally compatible and consistent housing infill” and “[e]ncourage and welcome new development at all levels of the housing market and ensure long-term sustainability of enough affordable housing to house current residents” (page 39); and

WHEREAS, a legislative variance authorizing a reduced rear-yard setback and increased density and setting aside the certificate of appropriateness requirement to permit the Project is further consistent with *Plan Cincinnati* (2012), specifically its Live Initiative Area with the goal to “[p]rovide a full spectrum of housing options, and improve housing quality and affordability” through strategies to “[p]rovide quality healthy housing for all income levels” and “[o]ffer housing options of varied sizes and types for residents at all stages of life” (page 164); and

WHEREAS, Council finds that permitting a congregate-housing facility of up to forty-four dwelling units on the Property will not have an adverse effect on the character of the area or the public health, safety, and general welfare, and further finds that it is in the best interests of the City and public's health, safety, and general welfare; now, therefore,

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

Section 1. That, after its own independent review and consideration, the Council incorporates the foregoing recitals as if fully rewritten herein, and it hereby confirms that the legislative variance criteria set forth in Section 111-5 of the Cincinnati Municipal Code are satisfied in all respects.

Section 2. That the Council specifically finds that a legislative variance authorizing the construction of a new congregate-housing facility on the Property (hereinafter defined), which facility may contain up to forty-four dwelling units maintained as affordable units in compliance with the Low-Income Housing Tax Credit program, shall include communal dining facilities and certain other facilities for the use and benefit of its residents, and shall have an exterior facade incorporating materials and colors that include a base of a light gray brick on the first floor topped with a cast stone belt course, red-orange brick through the middle of the building with individual and paired window openings in horizontal and vertical alignment, and a darker brick soldier course and a heavy coping material across a majority of the top of the building (“Project”), as more particularly described on the plans, elevations, and project summary attached hereto as Exhibit A

and incorporated herein by reference, on the real property commonly known as 2000 Dunlap Street (Ham. Co. PID 096-0005-0116-00) in the Over-the-Rhine neighborhood (“Property”), depicted on the map attached hereto as Exhibit B and incorporated herein by reference, will not have an adverse effect on the character of the surrounding area or the public's health, safety, and general welfare and would be consistent with the purposes of the Cincinnati Municipal Code and the UM, “Urban Mix,” zoning district.

Section 3. That the Council further finds that a legislative variance authorizing the construction of the Project on the Property will:

- a. return an underutilized lot to a more productive use;
- b. facilitate the creation of new housing for underserved segments of the Over-the-Rhine community;
- c. be necessary and appropriate to further the interests of historic conservation;
- d. not have an adverse effect on the architectural or aesthetic integrity of the Over-the-Rhine Historic District;
- e. permit the construction of a new infill building that is well-designed, with materials, massing, scale, and an overall appearance that fit within the context of the Over-the-Rhine community; and
- f. permit the construction of a new infill building that is substantially consistent with the Over-the-Rhine Historic District Conservation Guidelines.

Section 4. That, notwithstanding any provisions of the Cincinnati Municipal Code to the contrary, the Council hereby confirms that the Project described and depicted on the plans, elevations, and project summary attached hereto as Exhibit A constitutes a congregate-housing facility providing permanent supportive housing and that the use and operation of that facility shall be deemed a “congregate housing” use for the purposes of the Cincinnati Municipal Code and the UM, “Urban Mix,” zoning district.

Section 5. That the Council authorizes the construction of the Project, or a new infill building substantially similar to the Project, on the Property, subject to the terms and conditions set forth in this ordinance. This authorization is granted notwithstanding the September 27, 2022 decision of the Historic Conservation Board, attached hereto as Exhibit C and incorporated herein by reference, notwithstanding the density and setback regulations contained in Section 1410-07, "Development Regulations," of Cincinnati Municipal Code Chapter 1410, "Urban Mix District," and notwithstanding the requirement for a certificate of appropriateness contained in Section 1435-09, "Alterations and Demolitions; Certificates of Appropriateness; Minimum Maintenance," of Cincinnati Municipal Code Chapter 1435, "Historic Preservation."

Section 6. That this ordinance does not provide a variance from any other laws of the City of Cincinnati, and the Property shall remain subject to all other provisions of the Cincinnati Municipal Code, the UM, "Urban Mix," zoning district, and the Over-the-Rhine Historic District.

Section 7. That the use of the Property as a congregate-housing facility with forty-four dwelling units pursuant to this ordinance shall not be considered a nonconforming use of land unless otherwise permitted by law.

Section 8. That the City Manager, the Director of Buildings and Inspections, the Director of City Planning and Engagement, the Zoning Administrator, the Urban Conservator, and all other appropriate city officials are authorized to take all necessary and proper actions to implement this ordinance, including the issuance of building permits and related approvals provided they conform to applicable building codes, housing codes, accessibility laws, and other laws, rules, or regulations.

Section 9. 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 to enable the development activities on the Property to commence at the earliest possible time, so as to improve the welfare of the Over-the-Rhine community and the people of the City of Cincinnati at the earliest possible, and to take advantage of the availability of time-sensitive Low-Income Housing Tax Credits.

Passed: \_\_\_\_\_, 2022

\_\_\_\_\_  
Aftab Pureval, Mayor

Attest: \_\_\_\_\_  
Clerk