



EMERGENCY

City of Cincinnati

DBS

An Ordinance No. 401

EESW

- 2022

AUTHORIZING the redevelopment of the real property located at 4924 Winton Road in the Spring Grove Village and Winton Hills neighborhoods for use as an office and indoor storage facility NOTWITHSTANDING the use and development limitations contained in Chapter 1403, "Single-Family," of the Cincinnati Municipal Code, Chapter 1433, "Hillside Overlay Districts," relating to the addition of the three-bay garage, and any other applicable zoning regulations that would restrict the property's redevelopment.

WHEREAS, DSW Investments, LLC ("Owner") owns the real property located at 4924 Winton Road in the Spring Grove Village and Winton Hills neighborhoods ("Property"), which property is located in the SF-20, "Single-Family," zoning district and consists of one parcel containing a legally non-conforming commercial structure ("Structure") that has been occupied by various commercial uses since its construction in 1996, including its current use by D.A.G. Construction Company; and

WHEREAS, Harnist & Corcoran Properties, LLC ("Petitioner") owns the real property located at 1457 Harrison Avenue in the South Fairmount neighborhood, where it has operated a heating, ventilation, and air conditioning ("HVAC") company with approximately 40 employees since 1986; and

WHEREAS, the City has undertaken a roadway project commonly known as the Western Hills Viaduct Replacement Project that includes, but is not limited to, the construction, reconstruction, maintenance, and improvement of a bridge open to the public without charge; and

WHEREAS, the City deemed it necessary and has duly declared it is the City's intent to appropriate the real property located at 1457 Harrison Avenue to public use for the Western Hills Viaduct Replacement Project; and

WHEREAS, the Petitioner has entered into a purchase contract with the Owner to acquire the Property so that it may relocate its HVAC company to the Property and seeks to redevelop the Property for its use by modifying the Structure at an estimated cost of \$1,275,300 to include construction of a three-bay garage, retrofitting the existing garage, paving the existing gravel area, extending the existing storm detention infrastructure, installing new fencing and new signage, and making other cosmetic improvements inside the Structure ("Project"); and

WHEREAS, the Project is compatible with the surrounding land uses in the area, which include a strip of several other commercial and industrial businesses along Winton Road and another HVAC company located directly across Winton Road; and

WHEREAS, the Project will not alter the character of the surrounding area and will allow for the long-established commercial use of the Property to continue; and

WHEREAS, the Petitioner has requested authorization to complete the Project notwithstanding certain zoning code provisions that would otherwise prevent the Petitioner from relocating its HVAC company to the Property; and

WHEREAS, reasonable deviations from zoning code provisions that would otherwise prevent the Petitioner from relocating its HVAC company to the Property will provide substantial public benefits by allowing the Petitioner to redevelop the Property at an estimated cost of \$1,275,300 and continue to operate its business with approximately 40 employees within the City of Cincinnati; and

WHEREAS, the City Planning Commission, at its regularly scheduled meeting on December 2, 2022, upon considering the factors set forth in Cincinnati Municipal Code (“CMC”) Section 111-5, recommended the adoption of a notwithstanding ordinance authorizing the Project subject to certain conditions; and

WHEREAS, this ordinance authorizing the Project is consistent with *Plan Cincinnati* (2012), specifically the goal to “[f]oster a climate conducive to growth, investment, stability, and opportunity” (page 103) and the strategy to “[g]row our own by focusing on retention, expansion and relocation of existing businesses” (page 103); and

WHEREAS, the Council finds that the Project will preserve the quality and character of the neighborhood by improving and rehabilitating an existing building that will fit within the context of Winton Road and the Spring Grove Village and Winton Hills neighborhoods; and

WHEREAS, the Council additionally finds that permitting the Project will not have an adverse effect on the character of the area or the public health, safety, and welfare, and the Project is in the best interests of the City and the public's health, safety, morals, and general welfare; now, therefore,

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

Section 1. That, following its own independent review and consideration, the City Council incorporates the foregoing recitals as if fully rewritten herein, and it hereby confirms that this ordinance satisfies the criteria set forth in Section 111-5 of the Cincinnati Municipal Code in all respects.

Section 2. That the Council specifically finds that this ordinance authorizing the redevelopment and use of the Property as an office and indoor storage facility which property is

depicted on the map attached hereto as Exhibit A 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 that it is consistent with the purposes of the Cincinnati Municipal Code and the zoning districts within which the property is located.

Section 3. That the Council authorizes the construction of the Project and the Property's use as an office and indoor storage facility, subject to the terms and conditions set forth in this ordinance. This authorization is granted notwithstanding the use limitations contained in Chapter 1403, "Single-Family," of the Cincinnati Municipal Code, Chapter 1433, "Hillside Overlay Districts," relating to the addition of the three-bay garage, and any other applicable zoning regulations that would restrict the construction of the Project and its use as a heating, ventilation, and air conditioning company.

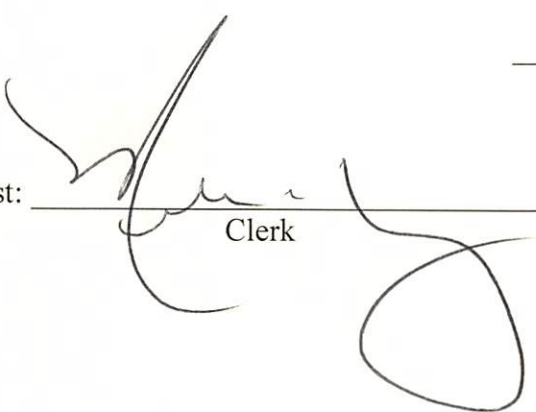
Section 4. That the Council authorizes the construction of the Project and the Property's use as an office and indoor storage facility, subject to the following conditions:

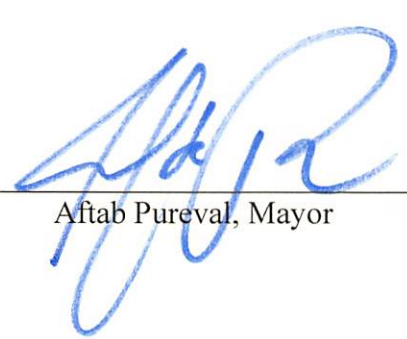
- a. The Project must substantially conform to the site plan attached hereto as Exhibit B and incorporated herein by reference.
- b. The new ground signage shall not exceed 10 feet in width and 15 feet in height.
- c. All site work and regrading, excluding that is necessary for the addition of the three-bay garage, will remain subject to the regulations of the Hillside Overlay District.
- d. That this ordinance does not provide relief 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 SF-20, "Single-Family" zoning district, and Chapter 1433, "Hillside Overlay Districts."

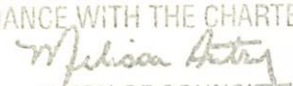
Section 5. That the City Manager and the appropriate City officials are authorized to take all necessary and proper actions to implement this ordinance, including by issuing building permits and related approvals provided they conform to applicable building codes, housing codes, accessibility laws, or other laws, rules, or regulations.

Section 6. 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 allow the Petitioner to move forward so that the City may receive the economic and noneconomic benefits from the sale and redevelopment of the Property at the earliest possible time.

Passed: December 21, 2022

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 401-2022
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 1-3-2023

CLERK OF COUNCIL