



City of Cincinnati

DBS

An Ordinance No. 154

- 2022

AWB

AUTHORIZING certain signage and street-level improvements to the building located at 50 W. 5th Street in the Central Business District NOTWITHSTANDING the provisions of Section 1411-21, "Ground Floor Transparency," and Section 1411-39, "Signs," of Chapter 1411, "Downtown Development Districts," of the Cincinnati Municipal Code.

WHEREAS, Fountain Place, LLC ("Owner") owns the real property located at 50 W. 5th Street in the Central Business District ("Property"), which property is presently zoned DD, "Downtown Development," and consists of the former Macy's-anchored Fountain Place building; and

WHEREAS, the Owner is in the process of repositioning the Fountain Place building as a 3.5-story, mixed-use structure containing approximately 150,000 square feet of office space and 35,000 square feet of street-level retail and restaurant space, including outdoor dining areas along the Vine Street frontage ("Foundry"); and

WHEREAS, the Foundry will serve as a catalyst for economic development in the area by reinvigorating an important property in downtown Cincinnati across from Fountain Square; and

WHEREAS, Divisions Maintenance Group, which is moving its headquarters to Cincinnati from Kentucky, and a Jeff Ruby's restaurant are among the tenants who have taken space in the development; and

WHEREAS, the Owner wishes to install numerous signs on the exterior of the Foundry to identify building tenants and further wishes to construct a cigar bar in the Jeff Ruby's outdoor dining area that is framed by an opaque wall adjacent to Vine Street ("Building Improvements"); and

WHEREAS, the Owner has requested authorization to construct the Building Improvements, notwithstanding certain zoning code provisions that would otherwise prevent the installation of several of the proposed signs and the construction of the cigar bar wall; and

WHEREAS, reasonable deviations from zoning code provisions that would otherwise prevent the installation of the proposed signage and construction of the opaque wall on the Property will provide substantial public benefits by creating an inviting and marketable space for tenants through the reinvention of a key downtown property as a modern mixed-use development; and

WHEREAS, the City Planning Commission, at its regularly scheduled meeting on May 6, 2022, upon considering the factors set forth in Cincinnati Municipal Code ("CMC") Section 111-

5, recommended the adoption of a notwithstanding ordinance authorizing the Building Improvements, subject to certain conditions; and

WHEREAS, a committee of Council held a public hearing to consider the passage of 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 the Building Improvements notwithstanding the zoning code provisions that would otherwise restrict them will not have an adverse effect on the character of the area or the public health, safety, and welfare, and further finding that permitting the Building Improvements to proceed is consistent with the purposes of the CMC and the zoning district in which the Property is located; and

WHEREAS, legislative variances authorizing the Building Improvements are consistent with the *Cincinnati 2000 Comprehensive Development Plan for Downtown (1986)*, which specifically identifies the west side of Vine Street, opposite Fountain Square, as a prime location for mixed-use development (page 21); and

WHEREAS, legislative variances authorizing the Building Improvements are further consistent with *Plan Cincinnati (2012)* in the Compete Initiative Area, specifically the strategy to “[t]arget investment to geographic areas where there is already economic activity” (page 81) and the Live Initiative Area goal to “[b]uild a robust public life” (page 149); and

WHEREAS, the Council finds that the Building Improvements will preserve the quality and character of the neighborhood by improving and rehabilitating an existing building that will fit within the context of the Downtown Development zoning district; and

WHEREAS, the Council additionally finds that permitting the Building Improvements will not have an adverse effect on the character of the area or the public health, safety, and welfare; and

WHEREAS, the Council finally finds that legislative variances from applicable zoning code provisions related to signage and ground floor transparency will not have an adverse effect on the character of the area or the public health, safety, and welfare, and that they are 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, after its own independent review and consideration, the City 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 legislative variances authorizing the installation of seven signs and the construction of an opaque exterior wall (“Building Improvements”) in connection with the renovation of the building located at 50 W. 5th Street in the Central Business District, 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 are consistent with the purposes of the Cincinnati Municipal Code and the zoning district within which the property is located.

Section 3. That the Council authorizes the construction of the Building Improvements, subject to the terms and conditions set forth in this ordinance. This authorization is granted notwithstanding the signage limitations and ground-floor transparency requirements contained in the provisions of Section 1411-21, “Ground Floor Transparency,” and Section 1411-39, “Signs,” of Chapter 1411, “Downtown Development Districts,” of the Cincinnati Municipal Code and any other applicable zoning regulations that would restrict their construction.

Section 4. That the Council authorizes the Building Improvements subject to the following conditions:

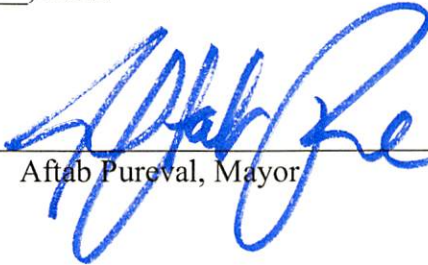
- a. That the Building Improvements must substantially conform to the plans attached hereto as Exhibit B and incorporated herein by reference.
- b. That this ordinance does not provide a variance from any other laws of the City of Cincinnati, and the property shall remain subject to all other provisions of the Cincinnati Municipal Code and the DD, “Downtown Development,” zoning district.
- c. That the Building Improvements shall not constitute nonconforming uses of land by virtue of this ordinance.


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

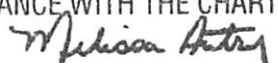
and related approvals provided they conform to applicable building codes, housing codes, accessibility laws, or other laws, rules, or regulations.

Section 6. That this ordinance shall take effect at the earliest time allowed by law.

Passed: June 8, 2022


Aftab Pureval, Mayor

Attest: 
Clerk

I HEREBY CERTIFY THAT ORDINANCE NO 154-2022
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 6-21-2022

CLERK OF COUNCIL