

CITY OF COLUMBUS

DEPARTMENT OF BUILDING AND ZONING SERVICES

One Stop Shop Zoning Report Date: Wed Jun 29 2016

General Zoning Inquiries: 614-645-8637

SITE INFORMATION

Address: 2275 N HIGH ST COLUMBUS OH 43201

Mailing Address: 135 WATERS MILL CIR

ALPHARETTA GA 30022-4487

Owner: EVENTIDE INC

Parcel Number: 010049822

ZONING INFORMATION

Zoning: ORIG, Commercial, C4

effective 2/27/1928, Height District H-35

Board of Zoning Adjustment (BZA): N/A

Commercial Overlay: UNIVERSITY UCO

Graphic Commission: N/A

Area Commission: University Area Commission

Planning Overlay: University/Impact

Historic District: N/A

Historic Site: No

Council Variance: N/A

Flood Zone: OUT

Airport Overlay Environs: N/A

PENDING ZONING ACTION

Zoning: N/A

Board of Zoning Adjustment (BZA): N/A

Council Variance: N/A
Graphic Commission: N/A





Board of Zoning Adjustment Application

DEPARTMENT OF BUILDING AND ZONING SERVICES 757 Carolyn Avenue, Columbus, Ohio 43224 Phone: 614-645-7433 • www.bzs.columbus.gov

-				
>	Application Number: 82A16-893		Date Received:	1 June 201
OFFICE USE ONLY	Application Accepted by:		Fee: \$ 1900	
SE	Commission/Civic:			
CEU	Existing Zoning:			
FFIC	Comments: July BZA			and the second s
0				
TYPE(S	S) OF ACTION REQUESTED (Check all that apply):			
Var	riance Special Permit			
Indicate	what the proposal is and list applicable code sections:		004	
Mixed	use retail, office and multifamily. Applicant requests reli the entirety of a 1.4 acre assemblage with a single struc	et from Section 3372. cture, and further requ	ire demolition of a n	umber of
	res to be preserved as part of the existing streetscape.	,		
LOCAT	PION	-		
	Address: 2273 N. High St.	City: Colu	ımbus	Zip: <u>43201</u>
Parcel N	fumber (only one required): 010-049822		1.	
	CANT (If different from Owner):			-
	nt Name: JSDI Celmark, Ltd.	Phone Number: 614-	334-6151	Ext.:
Address	c/o Taft Stettinius & Hollister, 65 E. State St., Ste. 100	O_City/State: Columbu	ıs, OH	Zip: 43215
Email A	ddress: jmaniace@taftlaw.com	Fax Numb	er: 614-221-2007	
PROPI	ERTY OWNER(S) \checkmark Check here if listing additional p	roperty owners on a se _l	oarate page	
	See attached	Phone Number:		Ext.:
Address	:	City/State:	200	Zip:
Email A	ddress:	Fax Numb	er:	
ATTOR	NEY / AGENT (Check one if applicable): 🗹 Attorney	Agent		
	James V. Maniace	Phone Number: 614-	-334-6151	Ext.:
Address	: 65 E. State St., Suite 1000	City/State: Columbu	ıs, OH	Zip: 43215
Email A	ddress: jmaniace@taftlaw.com	Fax Numb	er: 614-221-2007	-
SIGNATURES (All signatures must be provided and signed in blue ink)				
APPLICANT SIGNATURE President Member				
PROPERTY OWNER SIGNATURE See attached				
ATTORNEY / AGENT SIGNATURE				

PLEASE NOTE: incomplete information will result in the rejection of this submittal.

Applications must be submitted by appointment. Call 614-645-4522 to schedule.

Please make checks payable to the Columbus City Treasurer



Board of Zoning Adjustment Application

DEPARTMENT OF BUILDING AND ZONING SERVICES

757 Carolyn Avenue, Columbus, Ohio 43224 Phone: 614-645-7433 • www.bzs.columbus.gov

AFFIDAVIT	
STATE OF OHIO	
COUNTY OF FRANKLIN	
Being first duly cautioned and sworn (1) NAME <u>James V</u>	. Maniace
of (1) MAILING ADDRESS 65 E. State St., Suite 1000,	Columbus, Ohio 43215
deposes and states that (he/she) is the applicant, agent, or o	luly authorized attorney for same and the following is a list of the
name(s) and mailing address(es) of all the owners of record	
(2) per ADDRESS CARD FOR PROPERTY 2273 N. High	St., Columbus, Ohio 43201
for which application for a rezoning, variance, special perm	it or graphics plan was filed with the Department of Building and
Zoning Services, on (3)	
(THIS LINE TO	BE FILLED OUT BY CITY STAFF)
SUBJECT PROPERTY OWNERS NAME (4)	See attached.
AND MAILING ADDRESS	
APPLICANT'S NAME AND PHONE #	JSDI Celmark, Ltd., c/o Taft Stettinius & Hollister, LLP
(same as listed on front application)	614-334-6151
	University Area Commission
AREA COMMISSION OR CIVIC GROUP (5)	c/o Susan Keeny
AREA COMMISSION ZONING CHAIR	358 King Avenue, Columbus, OH 43201
OR CONTACT PERSON AND ADDRESS	
and that the following is a list of the names and complete	mailing addresses, including zip codes, as shown on the County
_	's Mailing List, of all the owners of record of property within 125
	e application was filed, and all of the owners of any property within 125
	pplicant or the property owner owns the property contiguous to the subject
property:	pplicant of the property owner owns the property configuous to the subject
(6a) PROPERTY OWNER NAME (6a) PROPERTY	ADDRESS (6b) PROPERTY OWNER MAILING ADDRESS
See attached	
(7) Check here if listing additional property owners on	a separate page.
[L.O.
(8) SIGNATURE OF AFFIANT	
	200
Sworn to before me and signed in my/presence this	day of June, in the year 2016
Dominary C. Obian	Notary Seal Here
(8) SIGNATURE OF NOTARY PUBLIC	My Commission Topics
(6) SIGNATURE OF TWO TART FUBLIC	ROSEMARY L. CULLISO
	Notary Public State of Othic

PLEASE NOTE: Incomplete information will result in the rejecting of the Applications must be submitted by appointment. Call 614-645 1524 to the Please make checks payable to the Columbus City Tree such

My Commission Emires

August 5, 2018

PROPERTY OWNERS:		
PARCELS 010-042030 010-004877 010-049822 010-001685 010-038768 010-010188	Eventide, Inc.	
010-038718 010-023648 010-002891	Johnathan R. Pavey SU-TR	
010-023143	Cynthia P. Rieth, Tr.	
Address, email and fax number for all owners:		
c/o Brian Close, Esq. Dinsmore & Shohl 191 W. Nationwide Blvd., #1000 Columbus, OH 43215 (614) 227-4209	Brian.close@dinsmore.com Fax: (614) 221-8590	
Signatures:		
Eventide, Inc.	Cynthia P. Rieth, Tr.	
Gree mast	Contl. Pyth. I.	
By: GREGOMANTIS	By: Cynthial Rieth	
Its: TREASONER	Its: huslee	

Jognathan R. Pavey SU-TR

By: Bonathan R. Paver Its: Trustee

16431628.1



Board of Zoning Adjustment Application

DEPARTMENT OF BUILDING AND ZONING SERVICES 757 Carolyn Avenue, Columbus, Ohio 43224 Phone: 614-645-7433 • www.bzs.columbus.gov

STATEMENT OF HARDSHIP

APPLICATION #

3307.09 Variances by Board.

- A. The Board of Zoning Adjustment shall have the power. upon application, to grant variances from the provisions and requirements of this Zoning Code (except for those under the jurisdiction of the Graphics Commission and except for use variances under the jurisdiction of the Council). No variance shall be granted unless the Board finds that all of the following facts and conditions exist:
 - Special circumstances or conditions apply to the subject property that do not apply, generally, to other properties in the same zoning district.
 - 2. The special circumstances or conditions are not the result of the actions of the property owner or applicant.
 - 3. The special circumstances or conditions make it necessary that a variance br granted to preserve a substantial property right of the applicant which is possessed by owners of other property in the same zoning district.
 - 4. The grant of a variance will not be injurious to neighboring properties and will not be contrary to the public interest or the intent and purpose of this Zoning Code.
- **B.** In granting a variance, the Board may impose such requirements and conditions regarding the location, character, and other features of the proposed uses or structures as the Board deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard public safety and welfare.

I have read Section 3307.00. Variances by Board, and believe my application for relief from the requirements

C. Nothing in this section shall be construed as authorizing the Board to affect changes in the Zoning Map or to add to the uses permitted in any district.

of the Zoning Code satisfi	es the four criteria for a variance in the follow	ing ways:
See Attached Letter.	,	
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Signature of Applicant_	hum.	Date

Taft Stettinius & Hollister LLP

65 East State Street, Suite 1000 / Columbus, OH 43215-4213 / Tel: 614.221.2838 / Fax: 614.221.2007 / www.taftlaw.com Cincinnati / Cleveland / Columbus / Dayton / Indianapolis / Northern Kentucky / Phoenix

JAMES V. MANIACE 614.334.6151 jmaniace@taftlaw.com

June 24, 2016

Columbus Board of Zoning Adjustment c/o James Friese 757 Carolyn Avenue Columbus, OH 43224

Re:

2273 N. High Street

Dear Jamie:

This letter is to serve as a Statement of Hardship for the variance application for the above property.

This variance request is a classic example of a technical variance, because it is solely to preserve certain existing site conditions as opposed to relaxing standards to permit development. Literal compliance with the code provision in question, 3372.604 OCC, would force the construction of a single building which would almost completely cover a 1.4 acre parcel and compel the demolition of a set of structures comprising a streetscape prized by the public and the University Area Review Board. Before analyzing the requested variance, a discussion of the proposed project will help put the request in perspective.

The subject property is an aggregation of ten tax parcels which collectively constitute a 1.4 acre parcel collectively fronting N. High Street. This stretch of N. High Street is near W. Lane Avenue and the properties are directly across from an OSU facility at the corner of N. High and W. Northwood Avenue. The site presently contains a hodge-podge of older residential, office and restaurant uses and a garage in the rear. The six northernmost existing structures facing N. High Street are the most attractive structures on the site and are in reasonable condition given their age.

The property is currently zoned as C-4, one of the most intense commercial classifications permitting a wide variety of uses. The Pavey Family, which has been in ownership of the properties for over a century, wishes to develop the property and engaged the applicant, JSDI Celmark, Ltd., ("JSDI Celmark") to do so. JSDI Celmark

Columbus Board of Zoning June 24, 2016 Page 2

and its principals have extensive experience in University Area development. The applicants have offered several different design alternatives to the University Area Review Board ("UARB"), which has no authority over variances but reviews development design. After submitting several designs, and taking into account the comments of the public and UARB, the applicant settled on an approach which preserved the six northernmost structures on N. High St. and placed a taller structure on the rear of the site. Renderings have been submitted as part of this application which illustrate the development concept.

The development plan submitted represents a considered analysis by UARB and the Applicant of the appropriateness of the development for the community, and the ability to fold the "to be preserved" buildings into a larger development, making their preservation economically feasible. The literal application of 3372.604 OCC would wreak havoc upon this plan, and for that matter any development plan for the site which would demolish any rear primary building.

The setback exhibit attached to this letter illustrates the damage the application of 3372.604 OCC causes. In a development scenario, where all tax parcels are combined under uniform ownership, the demolition of any of the rear W. Oakland Avenue facing structures would require rebuilding a structure which would overwhelm the site and destroy the six buildings all stake holders wish to preserve. The rebuilt building could have no more than a 10 foot setback from three separate public streets! The code provision, which may operate effectively in bringing a single rebuilt building on a small lot to face High Street, is plainly not suited for sites with multiple buildings where some existing buildings merit preservation.

The facts and conditions of this application justify the granting of this variance under 3307.09 OCC.

The requirements are in bold below with analysis immediately following:

1. Special circumstances or conditions apply to the subject property that does not apply, generally, to other properties in the same zoning district.

The streetscape of six consecutive stone buildings has been identified by the community and the University Area Review Board as an identifying feature of the entrance into a neighborhood known as the Old North, which is part of the University District. This property is a large assemblance compared to other properties in the District, and the code provision in question imposes a substantially different effect to the subject property than to a smaller parcel with a single building.

Columbus Board of Zoning June 24, 2016 Page 3

2. The special circumstances or conditions are not the result of the actions of the property owner or applicant.

The streetscape to be preserved is a property attribute which is over 100 years old, and existed when the current owners took title. The code provision in question was adopted in 2008.

3. The special circumstances or conditions make it necessary that a variance be granted to preserve a substantial property right of the applicant which is possessed by owners of other property in the same zoning district.

Development with a sensitivity to community needs is a substantial property right. It is impossible to meet the desires of the community to develop the property while preserving aspects of the streetscape without the variance. The District is populated with numerous single-building parcels which would not be adversely affected by the code provision, but this larger parcel has multiple buildings worth preserving.

4. The grant of a variance will not be injurious to neighboring properties and will not be contrary to the public interest or the intent and purpose of this Zoning Code.

The grant of the variance is certainly not injurious to the neighboring properties as it preserves existing conditions to which the neighboring properties are accustomed. To the extent that University Area Review Board and the University District Plan expresses a public interest in preserving a streetscape, the variance advances the public interest by permitting such preservation.

Further, under the standards of *Duncan v. Village of Middlefield*, 23 Ohio S.3rd 83 (1986), the variance is justified based on practical difficulties. As the Court in *Duncan* stated, "[t]he key to this standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable." The Applicant believes an area standard which essentially provides that the demolition of a small house in the rear of a parcel would require the destruction of 10 other structures is on its face unreasonable and absurd.

Columbus Board of Zoning June 24, 2016 Page 4

Next, let's review the enumerated standards in *Duncan* to determine to further justify the variance sought.

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance?

No. There can be no beneficial development use of the property without the variance. The property owners conducted a widely circulated request for proposal to solicit development proposals. Development of property within reasonable area standards is a fundamental property right of the owner. All of the realistic proposals received involved the demolition of some existing buildings, which effectively would call into play the code provision in question. In accord with the owners, developers do not see the existing property as constituted as being economically feasible in the long run. Without the variance, this site, with its functionally obsolescent and in some cases internally decaying buildings, is impossible to develop in any manner.

2. Whether the variance is substantial?

No. To the contrary, the application of the code provision is substantial, causing the demolition of the existing streetscape. The variance merely preserves desirable existing conditions and therefore is not substantial.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as the result of the variance?

No. The variance retains what many consider an essential character of the neighborhood, the N. High St. streetscape.

- 4. Whether the variance would adversely affect the delivery of governmental services?
- No. The variance has no impact on the delivery of governmental services.
- 5. Whether the property owner purchased the property with knowledge of the zoning restriction.

No. The property has been owned by the Pavey Family for over 100 years, and the code provision became law in 2008.

Columbus Board of Zoning June 24, 2016 Page 5

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance?

No. There is no feasible way to develop the property without demolishing a rear building, and thus no way to preserve the streetscape without the variance.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance?

Yes. The spirit and intent behind this provision is to bring the fronts of buildings within the Urban Commercial Overlay close to the street. This is not necessary for this parcel. The buildings which are being preserved by the variance are already near High Street and create the streetscape envisioned by the Urban Commercial Overlay.

Finally, at the time of this writing, the applicant can only speculate as to the eventual position of the University Area Commission. Based on discussions before the UARB, the applicant believes that there may be some opposition to this variance not related to any zoning issue but because of a perception that the overall project may not be in compliance with the University District Plan.

This Board is accustomed to explaining to community groups that plans do not have the force of law. The proposed development is fully compliant with all <u>legal</u> zoning requirements related to use, height, parking and floor area ratio. Arguments related to the University District Plan are irrelevant.

Very truly yours,

James V. Maniace

JVM:rlc Enclosures

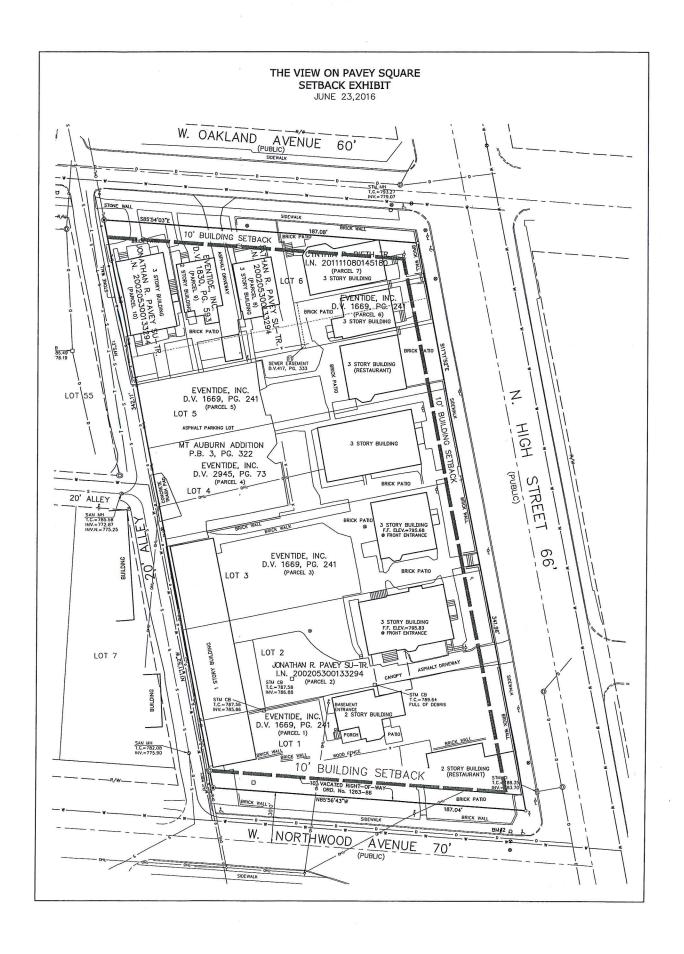
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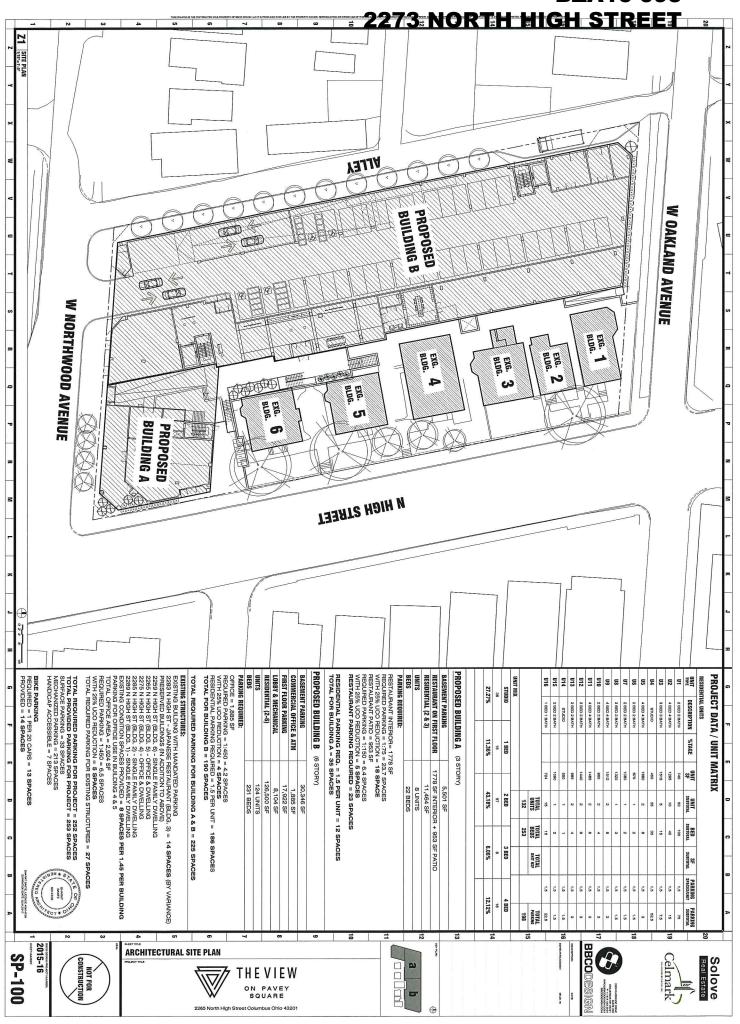


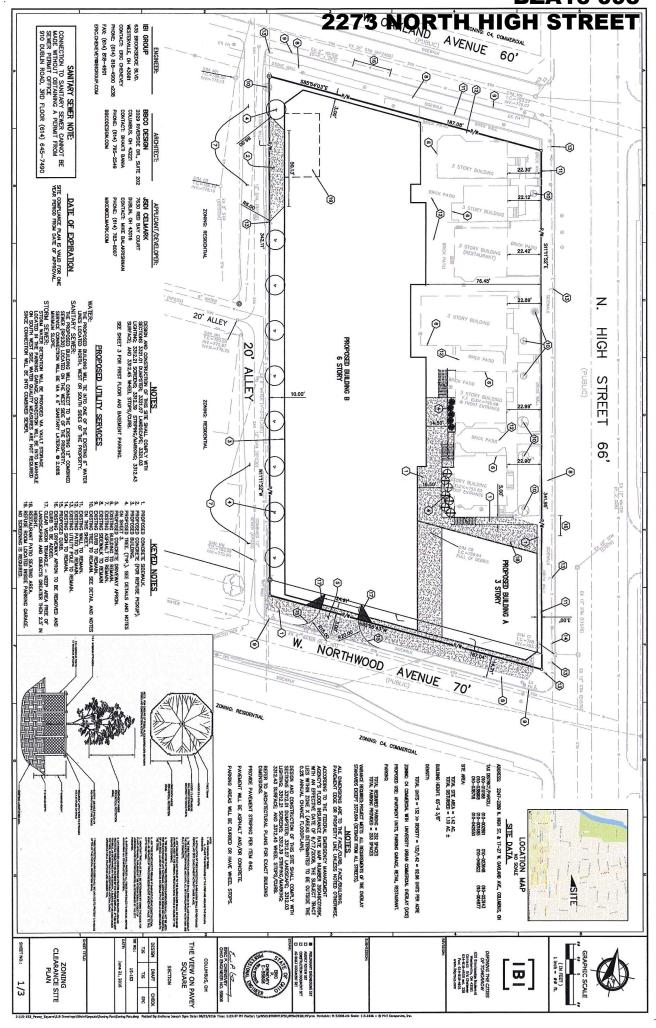
This map is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this map are notified that the public primary information sources should be consulted for verification of the information contained on this map. The county and the mapping companies assume no legal responsibilities for the information contained on this map. Please notify the Franklin County GIS Division of any discrepancies.

Real Estate / GIS Department

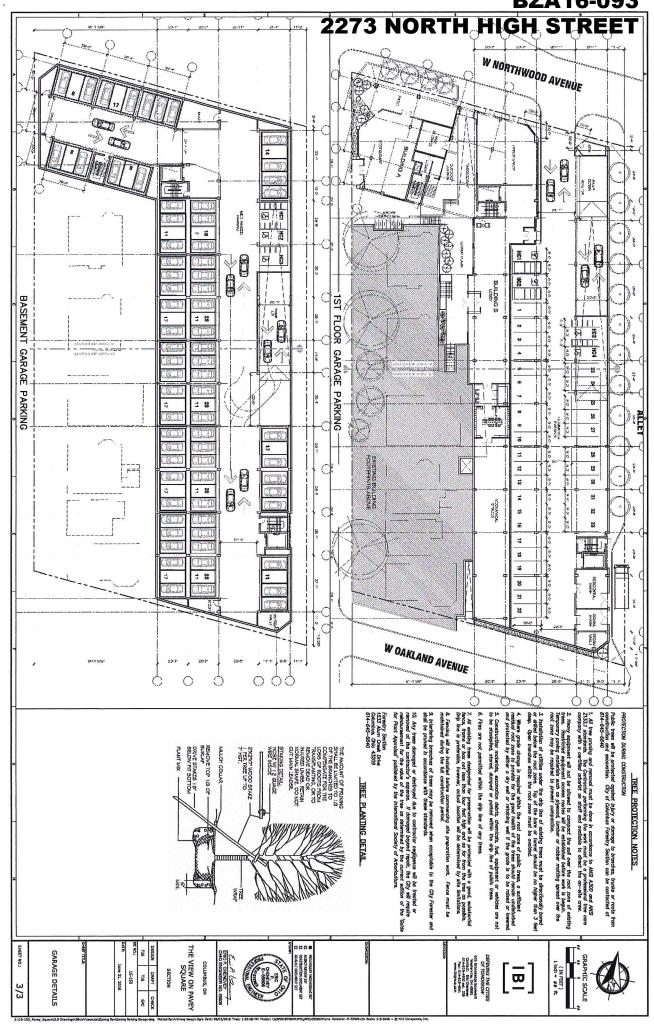
BZA16-093 EXHIBIT TO STATE AND RIGH STREET







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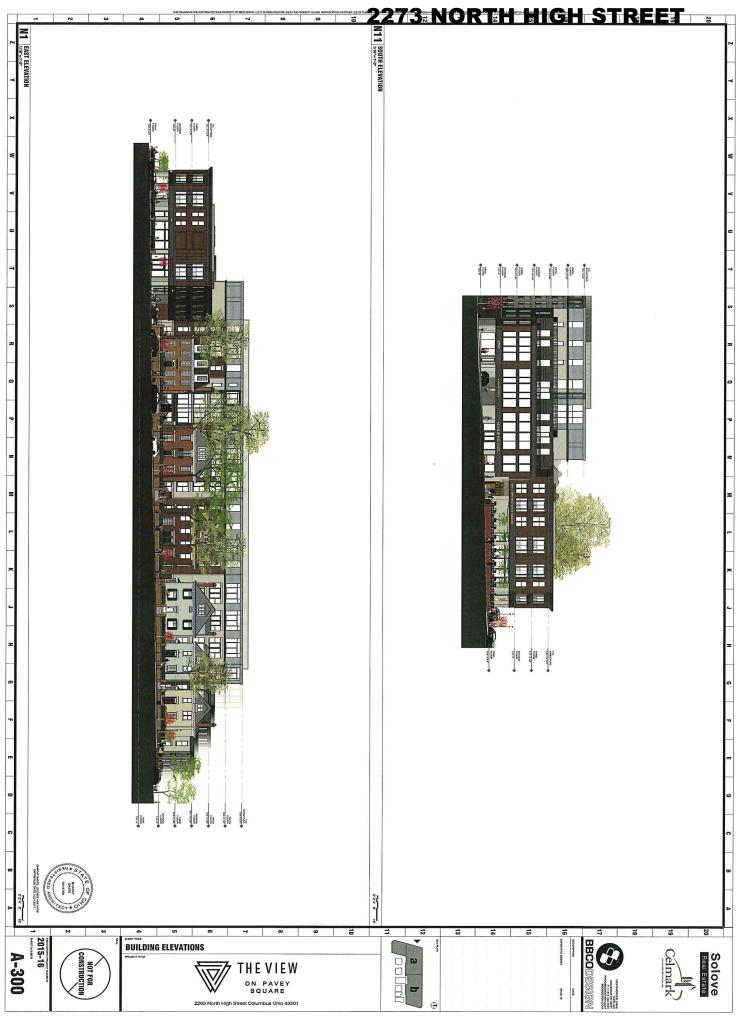


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SCHEMATIC DESIGN











Board of Zoning Adjustment Application

DEPARTMENT OF BUILDING AND ZONING SERVICES

757 Carolyn Avenue, Columbus, Ohio 43224 Phone: 614-645-7433 • www.bzs.columbus.gov

PROJECT DISCLOSURE STATEMENT

Parties having a 5% or more interest in the project that is the subject of this application.

THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

	APPLICATION #
STATE OF OHIO COUNTY OF FRANKL	
of (COMPLETE ADDR) deposes and states that	ed and sworn (NAME) James V. Maniace ESS) Taft Stettinius & Hollister, LLP, 65 E. State St., Suite 1000, Columbus, OH 43215 (he/she) is the APPLICANT, AGENT, OR DULY AUTHORIZED ATTORNEY FOR SAME and the following ther partnerships, corporations or entities having a 5% or more interest in the project which is the subject of eir mailing addresses:
NAME	COMPLETE MAILING ADDRESS
JSDI Celmark, Ltd. Eventide, Inc.	c/o James Maniace, Taft Stettinius & Hollister, 65 E. State St., Suite 1000, Columbus, OH 43215 c/o Brian Close, Esq., Dinsmore & Shohl, 191 W. Nationwide Blvd., #1000, Columbus, OH 43215
Cynthia P. Rieth, Tr.	c/o Brian Close, Esq., Dinsmore & Shohl, 191 W. Nationwide Blvd., #1000, Columbus, OH 43215
Johnathan R. Pavey S OH 43215	U-TR c/o Brian Close, Esq., Dinsmore & Shohl, 191 W. Nationwide Blvd., #1000, Columbus,
SIGNATURE OF AFFIAN	
Sworn to before me and s	igned in my presence this 33 day of Tune, in the year 3016
SIGNATURE OF NOTAE	My Commission Express ROSEMARY L. CULLISON Notary Public, State of Ottio My Commission Express August 5, 2018