



BOARD OF ZONING ADJUSTMENT APPLICATION

City of Columbus, Ohio • Department of Building & Zoning Services
757 Carolyn Avenue, Columbus, Ohio 43224 • Phone: 614-645-7433 • www.columbus.gov

OFFICE USE ONLY

Application Number: # 13310-00000-00191

Date Received: 25 MAR. 2013

Commission/Civic: 5th / N.W.

Existing Zoning: _____

Application Accepted by: HF

Fee: \$1900

Comments: _____

TYPE(S) OF ACTION REQUESTED

(Check all that apply)



Variance



Special Permit

Indicate what the proposal is and list applicable code sections.

An application for a variance to Columbus City Code Section 3312.49 to allow for zero on site parking at a site that requires 159 parking spaces.

LOCATION

1. Certified Address Number and Street Name 937, 939, 941 W. 3rd Ave.
943, 947, 949

City Columbus

State Ohio

Zip 43215

Parcel Number (only one required) 010062406

APPLICANT: (IF DIFFERENT FROM OWNER)

Name N/A

Address _____ City/State _____ Zip _____

Phone # _____ Fax # _____ Email _____

PROPERTY OWNER(S):

Name CER Real Estate Investments, LLC

Address 580 N. 4th St., Ste 120 City/State Columbus, OH Zip 43215

Phone # 760-5660 Fax # _____ Email jrkern@capitolequities.com

☐ Check here if listing additional property owners on a separate page.

ATTORNEY / AGENT (CHECK ONE IF APPLICABLE)



Attorney



Agent

Name James R. Rishel (rob)

Address 300 E. Broad St., Ste 450 City/State Columbus, OH Zip 43215

Phone # 221-0717 Fax # 221-1278 Email: rrishel@rrgovlaw.com

SIGNATURES (ALL SIGNATURES MUST BE PROVIDED AND SIGNED IN BLUE INK)

APPLICANT SIGNATURE _____

PROPERTY OWNER SIGNATURE _____

ATTORNEY / AGENT SIGNATURE James R. Rishel

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 all checks payable to the Columbus City Treasurer

CITY OF COLUMBUS

DEPARTMENT OF BUILDING AND ZONING SERVICES

One Stop Shop Zoning Report Date: Thu Mar 28 2013

Date: Thu Mar 28 2013

General Zoning Inquiries: 614-645-8637

SITE INFORMATION

Address: 937 W 3RD AVE COLUMBUS, OH

Mailing Address: 580 N 4TH ST STE 120
COLUMBUS OH 43215

Owner: CER REAL ESTATE INVESTMEN

Parcel Number: 010062406

ZONING INFORMATION

Zoning: ORIG, Manufacturing, M

effective 2/27/1928, Height District H-60

Historic District: N/A

Board of Zoning Adjustment (BZA): N/A

Historic Site: No

Commercial Overlay: N/A

Council Variance: N/A

Graphic Commission: N/A

Flood Zone: OUT

Area Commission: 5th by Northwest Area Commission

Airport Overlay Environs: N/A

Planning Overlay: N/A

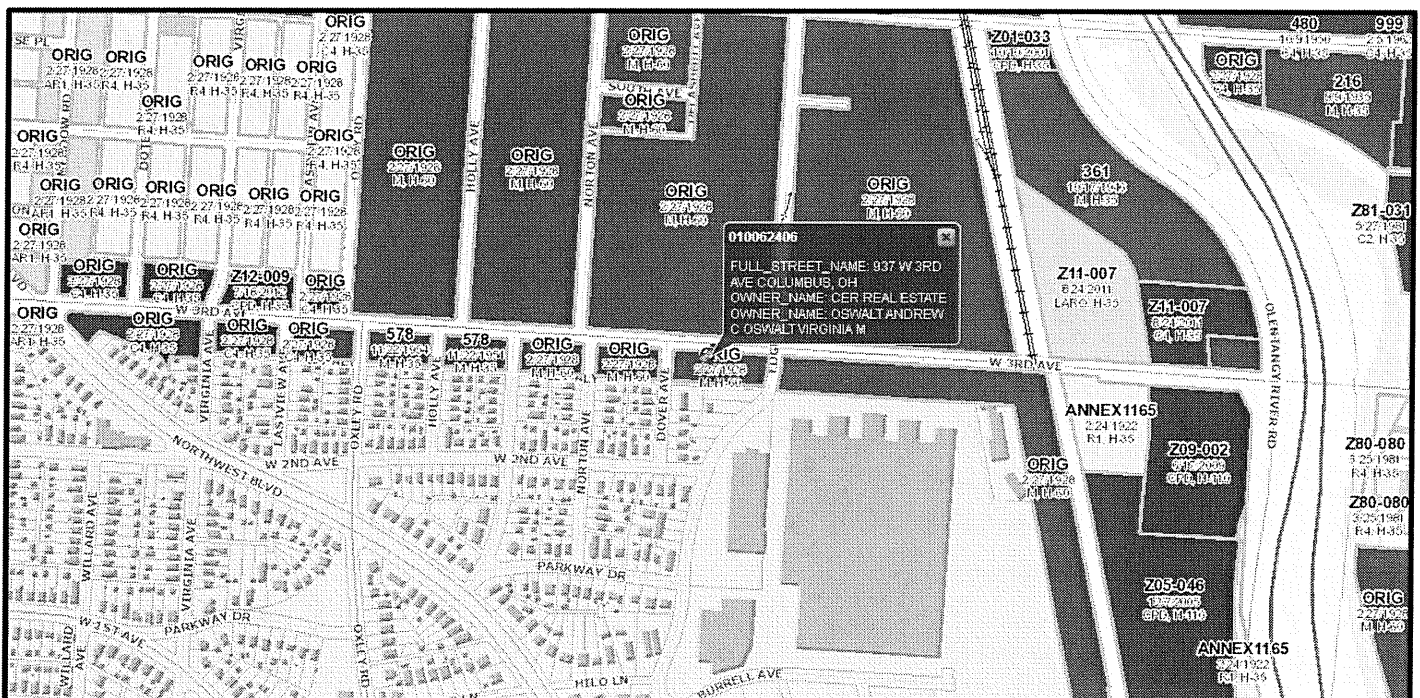
PENDING ZONING ACTION

Zoning: N/A

Council Variance: N/A

Board of Zoning Adjustment (BZA): N/A

Graphic Commission: N/A





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AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (1) NAME James Robert Rishel
of (1) MAILING ADDRESS 300 E. Broad St., Ste 450, Columbus, OH 43215
deposed and states that (he/she) is the applicant, agent, or duly authorized attorney for same and the following is a list of the
name(s) and mailing address(es) of all the owners of record of the property located at
(2) per ADDRESS CARD FOR PROPERTY
for which the application for a rezoning, variance, special permit 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
AND MAILING ADDRESS

(4) CER Real Estate Investments, LLC
580 N. 4th St., Ste. 120
Columbus, Ohio 43215
Attn: JR Kern

APPLICANT'S NAME AND PHONE #
(same as listed on front of application)

614-760-5660
Applicant is Property Owner

AREA COMMISSION OR CIVIC GROUP
AREA COMMISSION ZONING CHAIR OR
CONTACT PERSON AND ADDRESS

(5) 5th by Northwest - Bruce Shalter
Zoning Chair - 1635 B Grandview Ave.
Columbus, OH 43212

and that the following is a list of the **names** and **complete mailing addresses**, including **zip codes**, as shown on the **County Auditor's Current Tax List or the County Treasurer's Mailing List**, of all the **owners of record of property within 125 feet** of the exterior boundaries of the property for which the application was filed, **and** all of the owners of any property within 125 feet of the applicant's or owner's property in the event the applicant or the property owner owns the property contiguous to the subject property:

(6) PROPERTY OWNER(S) NAME (6A) ADDRESS OF PROPERTY (6B) PROPERTY OWNER(S) MAILING ADDRESS

☒ (7) Check here if listing additional property owners on a separate page.

SIGNATURE OF AFFIANT

(8)

Subscribed to me in my presence and before me this 12th day of March, in the year 2013

SIGNATURE OF NOTARY PUBLIC

(8)

My Commission Expires:

Notary Seal Here

STEVEN R. CUCKLER
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 627.03 R.C.

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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:
1. That special circumstances or conditions apply to the subject property that does not apply generally to other properties in the same zoning district.
 2. That the special circumstances or conditions are not the result of the actions of the property owner or applicant.
 3. That 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.
 4. That 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 the public safety and welfare.
- 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.

I have read Section 3307.09, Variances by Board, and believe my application for relief from the requirements of the Zoning Code satisfies the four criteria for a variance in the following ways:

Please See Attached

Signature of Applicant

Date

3-13-13

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EXHIBIT A

REQUEST FOR VARIANCE(S) and STATEMENT OF HARDSHIP

ADDRESS: 937-949 West Third Avenue

BZA: V13/SP13 _____

REQUEST – A VARIANCE FROM COLUMBUS CITY CODE SECTION 3312.49 (MINIMUM PARKING SPACES), TO ALLOW ZERO (0) PARKING SPACES WHERE 159 PARKING SPACES ARE REQUIRED.

The site that is subject to this application is 0.441 acres located on the southeast corner of the intersection of Third Avenue and Dover Avenue. The site is zoned M (Manufacturing). The surrounding properties are similarly zoned manufacturing to the north, east and west. Directly to the south is the border between the City of Columbus and the City of Grandview Heights.

The site was acquired in August of 2011 by CER Real Estate Investments LLC (CER). CER is a real estate brokerage company that leases space in the 17,248 square foot building located on the site. Currently, there are four leasable sections of the building and two of the spaces are leased; one for a glass manufacturing operation (3,900 sq./ft.) and one for a yoga studio (3,900 sq./ft.).

CER proposes to develop the remaining two spaces (4,900 sq./ft. each – 9,800 total) for a dine-in restaurant with an additional 1,800 sq./ft. being development for outdoor patio seating. This development requires a variance the Columbus City Code Section 3312.49 (Minimum Parking Spaces).

THE STANDARD – 159 Parking Spaces Required

CER has met with officials from the City's zoning department to establish the required number of parking spaces given the two existing uses (glass manufacturing and yoga studio) and the proposed use (dine in restaurant with an outdoor patio). The following is a break down of the requirement:

- Space 1: the glass manufacturing in 3,900 sq. @ 1:750 = 5.2 parking spaces required
- Space 2: the yoga space in 3,900 sq. @ 1:250 = 15.6 parking spaces required
- Space 3: potential restaurant in 4,900 sq. @ 1:75 = 62.66 parking spaces required
- Space 4: potential restaurant in 4,900 sq. @ 1:75 = 62.66 parking spaces required
- Space 5: potential restaurant patio in 1,800 sq. @ 1:75 = 24 x .5 = 12 parking spaces required

The total number of parking spaces required for the site given the existing and proposed uses is 159 parking spaces. However, this site is "under parked" as there are zero parking spaces available. No variances were sought when the glass manufacturing operation and the yoga studio were developed because under Columbus City Code Section 3312.03C2c¹ the site was credited with 23 parking spaces,

¹ CC3312.03(C.2.c)

and only 21 were required for those uses. Thus, it was granted zoning clearance.

CER, through its counsel, has submitted development plans that would provide for some parking on the site. However, the City's Department of Transportation considers a restaurant to be a substantial change of use and that would eliminate any potential parking spaces that maneuver or encroach into the City's right-of-way of W. Third Ave. and Dover Ave. That eliminates that ability of CER to provide any parking on site.

HARDSHIP

As noted, the site is in a M-manufacturing zoning district. Chapter 3363 of the Columbus City Code provides for a large number of uses in an M-district when compared to other zoning districts, including the uses currently at the site and those uses proposed by the applicant. The fact that that CER can develop no on-site parking for a site zoned M is unique given the amount of uses available. Further, as noted, the site is so "tight" that any parking spaces could be developed would encroach on the City's right of way, and thus are not permitted.

The uniqueness of an unparkable site in an M-district is not the result of actions of CER. The variance would allow CER to develop uses appropriate for the M zoning district that other similar property owners in the M-district can develop without a variance. The granting of the variance will not be injurious to the neighboring properties. Indeed, the vast majority of the surrounding properties are also zoned M. Further, the granting of the variance will not be inconsistent with the interest or intent of the zoning code. In fact, as detailed below, the proposed development for which the variance is needed is consistent with the 5th by Northwest Area Plan.

MITIGATING CIRCUMSTANCES

Columbus City Code Section 3312.03(C)(2)© gives the site a "credit" for 23 parking spaces. In addition CER owns parcels 030-002150 and 030-002149 that are located directly to the southeast of the site on the other side of the alley that runs east to west behind the site. These parcels are next to the site, but they are in the City of Grandview. CER has committed to developing a surface lot on these parcels that will provide an additional 45 parking spaces to service the site. Please note the attached exhibit that shows the development of these two parcels.

Further, CER has committed to working out agreements with neighboring property owners in the area to establish shared parking arrangements. This is consistent with the guidelines of the 5th by Northwest Plan that recognizes the parking challenges for the area. As of the date of this application, CER is actively negotiating an agreement with the owners of 955-995 to gain an additional 30 spaces that can serve the site. If completed, CER will have 98 spaces either credited or directly controlled by CER to serve the site.

2. Initiating a New Use, Changing the Intensity of or Expanding an Existing Use. A use of higher intensity requires more parking spaces than does a use of lower intensity. For purposes of comparison, "intensity" means the minimum requirements for parking spaces generated by a particular use. Any person who initiates a new use, or changes the intensity of, or expands an existing use, shall provide the number of parking spaces required by such use, calculated as specified in items (a) through (f).

c. Without expansion of an existing building, a new use of higher intensity than the existing use shall provide the same number of parking spaces as the existing use, plus additional parking spaces equal to the difference between that required for the higher and lower intensity uses.

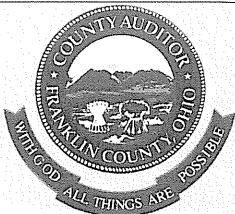
There is also an abundance of on street parking available in the area near the site. On the attached exhibit the streets highlighted in blue show where on street parking is available. These streets include: Second Ave., Dover Ave., Parkway N., Holly Ave., Oxley Rd., Eastview Ave.,

The 5th by Northwest Area Plan must also be considered as part of this variance. The overall plan itself focuses on making the area more “pedestrian friendly”, and encourages an overall reduction of parking by encouraging the use of transit. For instance, the plan recommends the installation of bike racks as part of new development (CER will install two), the plan provides that buildings should be designed to address the street and enhance the pedestrian experience with an example being the use of outdoor dining areas, and it recommends that the parking that is provided should be to the side or the rear of the building where the applicant proposes to locate theirs.

Even more to the point, the plan itself recognizes the difficulty of parking for projects in higher density and mixed-use corridors such as Third Avenue. The plan itself recommends that parking should be balanced with the goals of reducing a development’s impact on the natural environment, creating a more walkable neighborhood, and encouraging use of transit as detailed above. The plan specifically states that parking reduction is appropriate for higher density projects along several corridors, and Third Ave. is specifically listed.

Given the hardship this site has by being zoned M and having no parking available on site, the ability for the applicant to provide 98 spaces through credits and ownership and leases, the amount of on street parking in the area, and the goals of the 5th by Northwest plan this variance is appropriate.

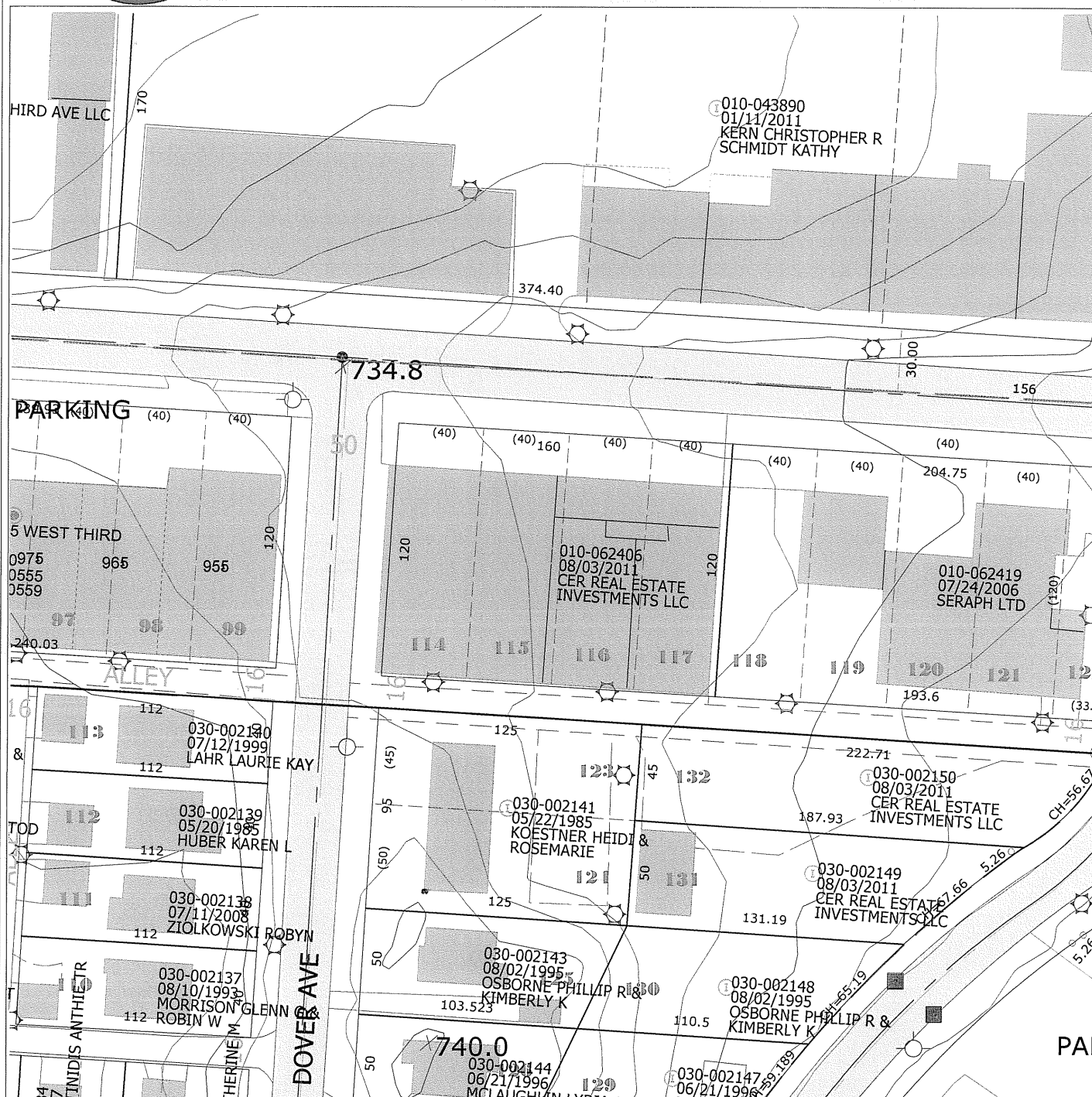




CLARENCE E MINGO II FRANKLIN COUNTY AUDITOR

MAP ID: N

DATE: 2/12/13



Disclaimer

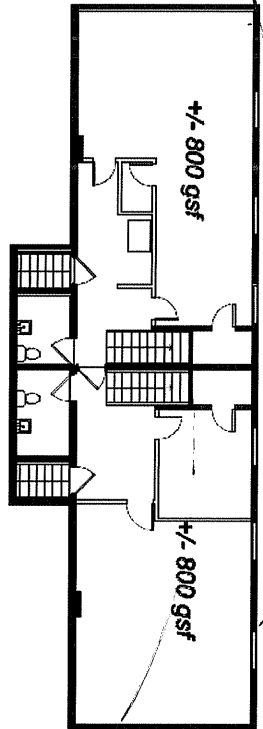
Scale = 70



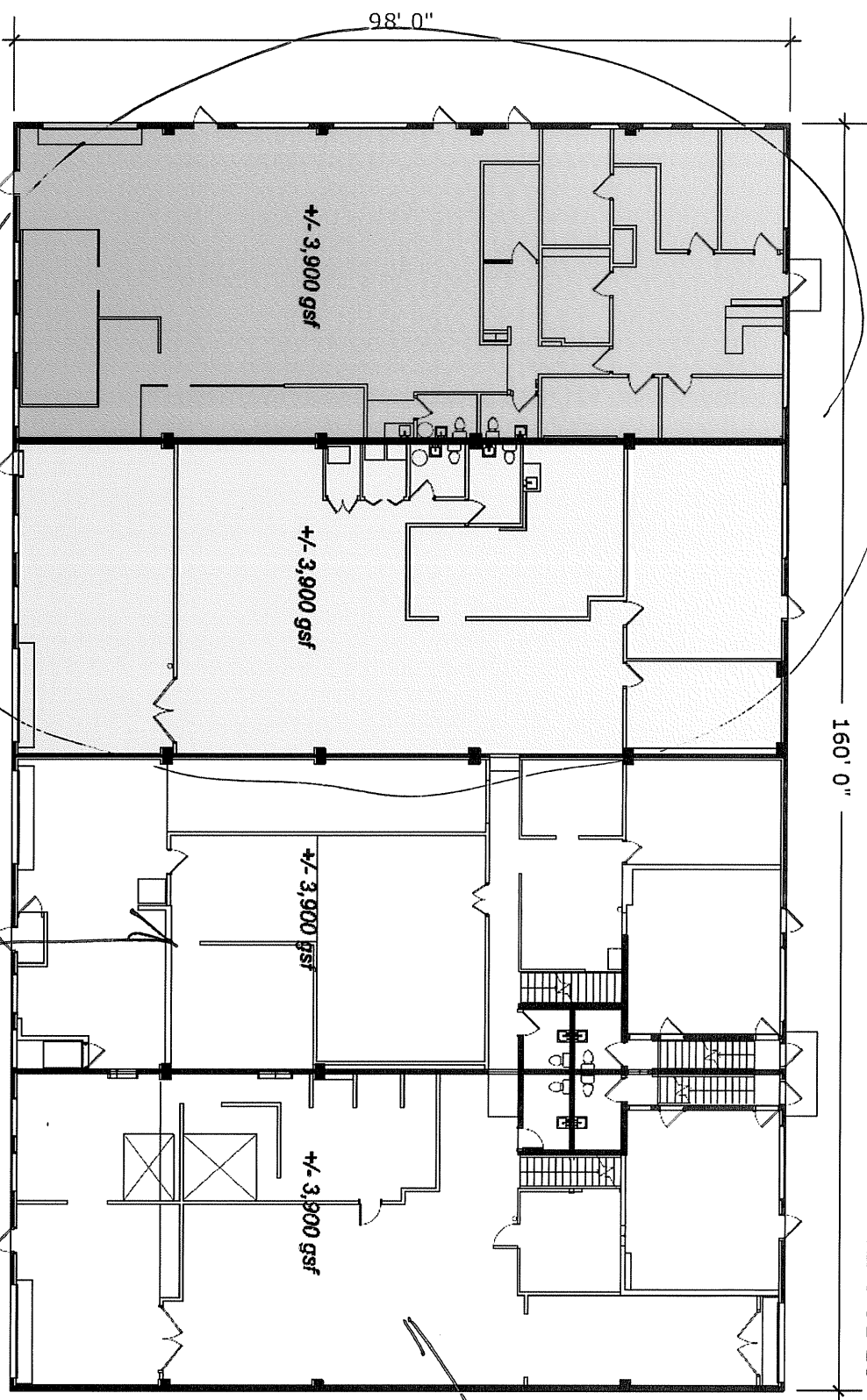
This map is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this map are notified that the public primary information sources should be consulted for verification of the information contained on 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

Rect
(Preferred)
x



Second Floor



Glar
Men
(Exists)

40%
(Exists)
First Floor

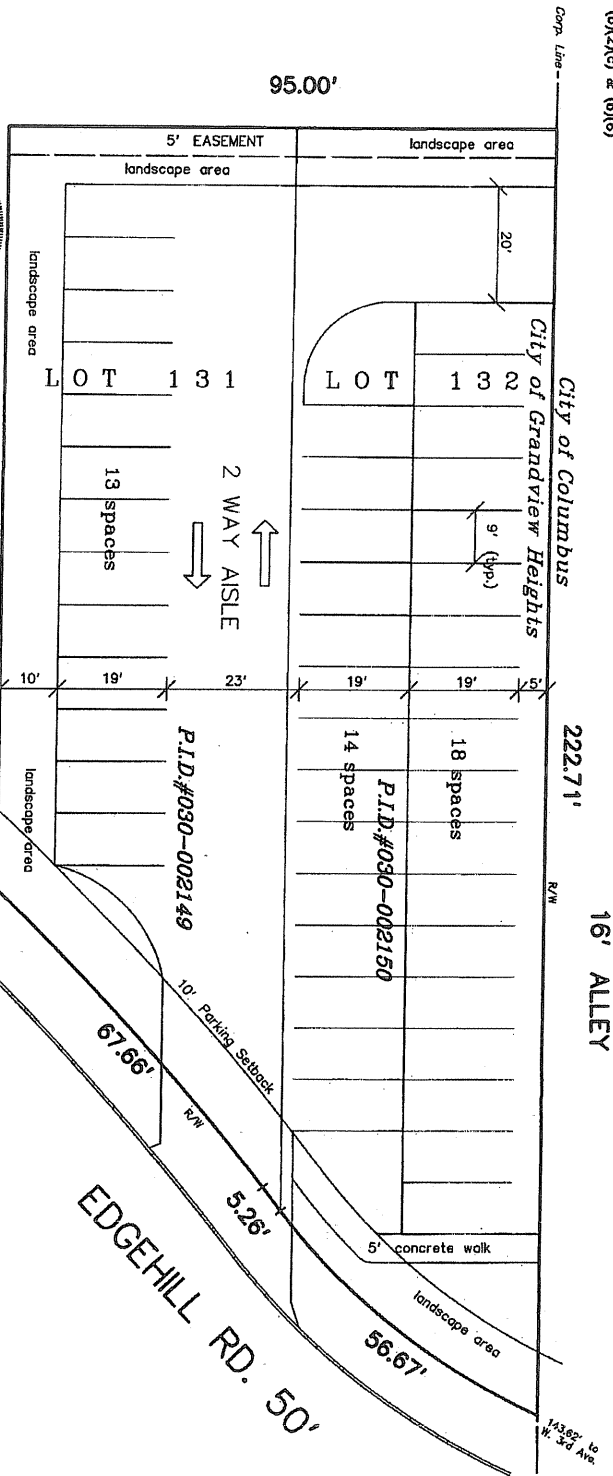
Situated in the State of Ohio, County of Franklin, City of Grandview Heights, being Lot Numbers 131 and 132 of North West Boulevard Addition Plat No. 5, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 14, Page 50, Recorder's Office, Franklin County, Ohio for:

Capitol Equities

Applicant will comply with the following codes:

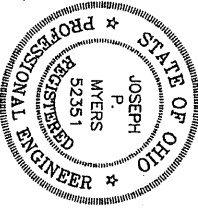
1153.07 (a), (b), (d), (e), (f)

1157.07 except for (b)(2)(c) & (b)(6)



Plan Prepared By:

Joseph P. Myers, P.E. 52351



NOTE: SITE PLAN INFORMATION PREPARED FROM RECORDS ONLY.



Scale 1" = 20'

May 2, 2011

Preliminary Parking Site Plan
for Zoning Purposes

Myers Surveying
COMPANY

2740 E. Main St., Berley, Ohio 43209-2577
(614)235-8677 ~ (614)235-4559 fax
info@myerssurveying.com

Map 2-04/28/2011 2042301146/



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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 FRANKLIN

Being first duly cautioned and sworn (NAME) James Robert Rishel
of (COMPLETE ADDRESS) 300 E. Broad St, Ste 450, Columbus, Ohio 43215
deposes and states that (he/she) is the APPLICANT, AGENT OR DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application and their mailing addresses:

NAME

COMPLETE MAILING ADDRESS

CER Real Estate Investments, LLC - 580 N. 4th St., Ste 120
Columbus, Ohio 43215

SIGNATURE OF AFFIANT

Subscribed to me in my presence and before me this 12th day of March, in the year 2013

SIGNATURE OF NOTARY PUBLIC

My Commission Expires:

STEVEN R. CUCKLER
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

Notary Seal Here

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