



Board of Zoning Appeals

January 20, 2021

Board Meeting

Agenda

5:30 PM

ZOOM TELECONFERENCE

Join Zoom Meeting

Meeting ID: 884 5593 7277

Passcode: 159118

Online at <https://us02web.zoom.us/j/88455937277>

Dial by phone: +1-929-205-6099

If you want to provide input to the Board, you will need to be sworn in by stating the following:

My name is _____. My address is _____.

I affirm that my testimony is truthful, to the best of my knowledge and ability, so help me God or under penalty of perjury.

CALL TO ORDER

MINUTES APPROVAL

- Board of Zoning Appeals - Board Meeting - Jan 6, 2021 5:30 PM

BZA FILES

- 2021-BZA-04 : 301 N Mulberry ST - Conditional Use Permit and Variances for Multi-Family Complex

ADJOURN AT THE CALL OF THE CHAIRMAN



Board of Zoning Appeals Meeting: 01/20/21 5:30 PM
City of Mount Vernon Dept: **Board of Zoning Appeals**
Mount Vernon, OH 43050

SCHEDULED

Category: N/A
 Prepared By: Lacie Blankenhorn
 Initiator: Lacie Blankenhorn

BZA FILE (ID # 2257)

DOC ID: 2257

**2021-BZA-04 : 301 N MULBERRY ST - CONDITIONAL USE PERMIT AND
 VARIANCES FOR MULTI-FAMILY COMPLEX**

Item Number	2021-BZA-04
Site Address	301 N Mulberry ST
Parcel Number	66-00810.000
Zoning District	NC Neighborhood Commercial
Presented By	Donald T. Plank, Plank Law Firm, LPA for 301 Mulberry LLC

Quick Guide to Codified Ordinance Sections (may not be inclusive):
 1164.01 Permitted and Conditional Uses (NC District)
 1164.02 Development Standards (NC District)

The following attachments were submitted by the applicant as support for their request:

- Application
- Exhibit A – Legal Description
- Exhibit B – Project Narrative
- Exhibit C – Conditional Use Argument
- Exhibit D – Variance Argument
- Exhibit E – 300 ft buffer property (not included in this packet)
- Exhibit F – Site Plan



City of Mount Vernon, Ohio
Board of Zoning Appeals

Request for Hearing

Applicant's Information			
Owner's Name, Address and Phone 301 Mulberry LLC			
Agent's Name, Address and Phone Donald T. Plank, Plank Law Firm, LPA, 411 East Town Street, Floor 2, Columbus, Ohio 43215, 614-947-8600			
Email address: dtp@planklaw.com			
Site Information			
Site Address 301 N. Mulberry Street, Mt. Vernon		Legal Description	
Parcel Number 66-00810.000	Deed Volume and Page Number 1757/722	Zoning District Neighborhood Commercial-NC	
Existing use of property abandoned school		Proposed use of property multi-family residential	
Hearing Request			
Type of Hearing Requested ☒ Variance ☒ Conditional Use ☐ Appeal of Decision ☐ Map Interpretation ☐ Substantially Similar Use			
In the following section, please list a brief description of the request. Narrative statements and any additional documents or information required by the Zoning Code and Chapter 1155 should be attached to this application as separate sheets.			
Request: Please see exhibits, attached hereto			
I hereby certify that the information submitted on this application and on any sketches, drawings or other documents submitted with this application is true and exact.			
Date: 12/31/2020		By: Rebecca J. Mott, Attorney	
Status of Application			
Filing Date		Case Number	
		Hearing Date	
		Fee deposit \$75.00	Date Paid
Status of Board's Action ☐ Approved ☐ Denied			

Attachment: Signed and Dated Completed Application Form - RJM 12-31-2020 (2257 : 2021-Bza-04)

Exhibit "A"

Situated in the City of Mount Vernon, County of Knox, State of Ohio and being part of Lot Six (6) in Jesse Hunt's Addition to the City of Mount Vernon as recorded in Deed Volume J, Page 281, being all of Lots Three Hundred Eleven (311), Three Hundred Twelve (312), Three Hundred Thirteen (313) and Three Hundred Fourteen (314) in the Northern Addition to the City of Mount Vernon as recorded in Deed Volume A-F, Page 614, being all of Lot Five Hundred Forty-four (544), Five Hundred Forty-five (545), Five Hundred Forty-six (546), Five Hundred Forty-seven (547), Five Hundred Forty-eight (548), Five Hundred Forty-nine (549), Five Hundred Fifty (550), Five Hundred Fifty-one (551), Five Hundred Fifty-two (552) and Five Hundred Fifty-three (553) in the Burgess Addition to the City of Mount Vernon as recorded in Deed Volume J, Page 402, and an alley 16.50 feet in width vacated through Ordinance 1996-25 and being more particularly described as follows: Beginning at an iron pin set in the northeast corner of said Lot 314, said iron pin also being in the intersection of the south line of West Burgess Street and the west line of North Mulberry Street; Thence South 04 degrees 56 minutes 39 seconds West 266.63 feet along the east line of said Lots 311 through 314 also being along said west line of North Mulberry Street to a drill holes set in the southeast corner of said Lot 311 also being in the intersection of said west line of North Mulberry Street and the north line of West Hamtramck Street; Thence North 85 degrees 12 minutes 22 seconds West, 604.61 feet along the south line of said Lot 311, the south line of said vacated alley, the south line of said Lots 544 through 548 and the south line of said Lot 6 also being along said north line of West Hamtramck Street to the southwesterly corner of said Lot 6 also being the intersection of said north line of West Hamtramck Street and the easterly line of North Sandusky Street, said corner being referenced by an iron pin set South 18 degrees 45 minutes 00 seconds East, 3.00 feet from said corner; Thence, North 18 degrees 45 minutes 00 seconds West, 305.50 feet along the westerly line of said Lot 6 also being along said easterly line of North Sandusky Street to a drill hole set in the northwesterly corner of said Lot 6, said drill hole also being in the intersection of said easterly line of North Sandusky Street and the aforementioned south line of West Burgess Street; thence South 84 degrees 08 minutes 52 seconds East, 727.47 feet along the north line of said Lot 6, the north line of said Lots 553 through 549, the north line of said vacated alley and the north line of said Lot 314, also being along said south line of West Burgess Street to the place of beginning, and containing 4.170 acres, more or less, but subject to all legal highways and easements of record. Bearings are to an assumed meridian and are used to express angles only. All iron pins set are 5/8 inch diameter rod with plastic cap stamped "STEVENS 7052", According to a survey made in August 1999 by Roger L. Stevens, Ohio Registered Surveyor No. 7052.

Permanent Parcel # 66-00810.000

DESCRIPTION
APPROVED JMS
JIM HENRY
KNOX COUNTY ENGINEER

Attachment: Exhibit A - Legal Description (2257 : 2021-Bza-04)

Exhibit “B”
Project Narrative

Applicant and Property Owner, 301 Mulberry LLC, intends to construct one hundred and two (102) multi-family residential dwelling units on real property currently zoned Neighborhood Commercial (“NC”) and containing approximately 4.20 +/- acres, the legal description of which accompanies this application (the “Property”). The Property is located west of North Mulberry Street, east of North Sandusky Street, and north of West Hamtramck Street.

The Applicant proposes to apply for a conditional use relative to this development under Section 1155.22 of the Mount Vernon, Ohio Code of Ordinances (the “Zoning Ordinance”) in accordance with Section 1164.01(b)(1), which lists residential, as determined compatible with other uses in the area, utilizing structures existing at the time of passage of the Zoning Ordinance as a conditional use in the NC district. The Applicant proposes to re-develop the Property, as depicted on the Site Plan dated December 21, 2020 (the “Site Plan”) accompanying this application.

The proposed development (for the buildings in the rear) will meet the development standards as delineated in Section 1164.02 of the Zoning Ordinance or previous variances that were granted by the Board of Zoning Appeals (“BZA”) relative to the Property in 2020. As it relates to the proposed re-development pertaining to the existing main school building along the frontage, which shall be preserved to the maximum extent possible, the Applicant requests two (2) variances from the following sections of the Zoning Ordinance: (i) Section 1164.02(b) that the maximum height shall be thirty (30) feet (maximum building height, excluding chimneys and cupola shall be 50 feet); and Section 1164.02(b) that maximum building square footage shall be 8,000 (maximum square footage shall be 51,000). [Note: Please refer to the variance presentation attached to the application as Exhibit “D” and the Site Plan, which indicates the variances that have already been obtained on the Property, as it relates to the townhomes and garden unit buildings in terms of height and square footage. In addition, a variance to the minimum number of parking spaces required was obtained from 2 parking spaces per dwelling unit to 1.7 parking spaces per dwelling unit. Applicant proposes to now provide 1.88 parking spaces per dwelling unit, for a total of 192 parking spaces.]

There shall be one (1) vehicular access point onto the Property to and from West Burgess Street to the north and two (2) vehicular access points onto the Property to and from Mulberry Street to the east. There will be an attractive, landscaped pedestrian entrance feature onto the Property offering connectivity to and from the public sidewalk along North Mulberry Street. All vehicular use and parking areas in the middle and rear of the Property shall be shielded from view by buildings and/or landscaping on the Property.

The Applicant will preserve the existing wall that surrounds the Property and the existing vegetation and trees to the rear of the Property. Ample landscaping and open/green space will be provided throughout the Property to offer shade, tranquility, and beauty to the Property and to benefit the residents and guests of the apartments.

Exhibit “C”

Conditional Use Argument

Applicant proposes to develop one hundred and two (102) residential dwelling units on the Property. Applicant meets the general standards applicable to all conditional uses in the City of Mount Vernon, Ohio (the “City”), as specified under Section 155.24 of the Zoning Ordinance. Such use at the proposed location:

1. Is in fact a conditional use as established under the Schedule of District Regulations adopted for the zoning district involved.

The Property is zoned Neighborhood Commercial (“NC”) district. The use as “residential” and more specifically, “multi-family residential” is a conditional use as specified in Section 1164.01(b)(1) in the Neighborhood Commercial (“NC”) district.

2. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City’s Comprehensive Plan and/or the Zoning Ordinance.

The proposed development meets the stated quality of life goals and objectives of the Knox County Comprehensive Plan, where it states at page 101: “Affordability, changes in household size, an aging population, and a growing preference for walkability, will all continue to reshape Knox County’s residential development patterns moving forward. An attractive, high-quality, and safe housing stock is important for retaining and attracting residents.” This proposed development will offer an affordable, high-quality, and attractive housing option for renters in the City. In addition, the Property’s location offers excellent walkability to nearby retail stores and offices to enhance the residents’ and guests’ convenience and quality of life.

3. Will not be hazardous or disturbing to existing or future neighboring uses.

The proposed development will not be hazardous or disturbing to existing or future neighboring uses. Properties to the north of the Property are zoned R-1; properties to the east are zoned O/I; properties to the south are zoned a mixture of R-3, M-1, and G-B; and the property to the west is zoned M-1. Therefore, the character of the neighborhood is a true mixed-use neighborhood, and the proposed use as multi-family residential not only fits in with the character of the neighborhood, but enhances and provides a good buffer and transitional use between the more intense mixed-uses to the south and the less intense residential uses to the north. All rear vehicular use and parking areas shall be screened from view by neighboring properties by buildings and/or landscaping on the Property. The front part of the main school building shall be preserved to the greatest extent possible, as it is structurally sound. The preserved portions of the building offer high quality and unique architectural features and qualities and create historical significance – Applicant is proud to preserve this portion of the main school building for its historical significance and as a landmark (bridging past generations to future generations, as to its use as a school to its proposed use as multi-family residential). The existing wall surrounding the Property and trees and vegetation to the rear of the Property shall be preserved. In addition, ample landscaping and open space will be provided to benefit the residents and guests of the apartments.

4. Will be served adequately by essential public facilities and services such as highways, street, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

The Property is served adequately by essential public facilities and services, such as access to public roadways, police and fire services, on-site drainage structures (existing and improved), refuse disposal, water and sewer, and schools.

5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

The proposed use will not create excessive additional requirements at public cost. The public facilities and infrastructure already exist to serve the Property. The proposed use will enhance the growth and economic welfare and development of the community by helping to provide additional and a more diverse housing stock for the residents of the Mount Vernon, Ohio, which supports the retention of people in the community to live and work and will support the businesses and industries that will be attracted to and commence operations on the Cooper Progress Park lands.

6. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, flare or odor.

No uses on the Property will involve processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, and there will be no excessive or noxious uses involving noise, smoke, fumes, flare or odor.

7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

There shall be one (1) vehicular access point onto the Property to and from West Burgess Street to the north and two (2) vehicular access points onto the Property to and from Mulberry Street to the east. There will be an attractive, landscaped pedestrian entrance feature onto the Property offering connectivity to and from the public sidewalk along North Mulberry Street. All vehicular use and parking areas in the middle and rear of the Property shall be shielded from view by buildings and/or landscaping on the Property.

8. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The Applicant's proposed development will help the City re-use and re-purpose (while preserving as much of the main school building as feasible) a site at a good location that was formerly used by the City as a public middle school. The site is ripe for new development, which will only enhance and beautify the neighborhood and help to increase the values of the properties in the vicinity.

Exhibit “D”
Variance Argument

The Applicant is requesting seven (7) variances from the Mount Vernon, Ohio Zoning Ordinance (the “Zoning Code”).

Area Variances Requested

- Zoning Code Section 1164.02(b) – Maximum Building Height. Buildings shall have a maximum height of thirty (30) feet.
 - The main school building along the frontage of the Property does and will continue (under this proposal) to exceed 30 feet as delineated in the Zoning Code. The building height on the Property shall not exceed 50 feet, and is limited to the height for the building as delineated on the approved site plan.
 - ¹*The rear buildings were granted variances to this standard to a maximum height of 50 feet. Applicant meets this standard with the two (2) 24-unit garden style unit buildings, with a height of 45 feet. However, Applicant is requesting a variance to renew this same variance request.
 - *The middle buildings were granted variances to this standard to a maximum height of 36 feet. Applicant meets this standard with the middle townhome units building with a height of 35 feet. However, Applicant is requesting a variance to renew this same variance request.
- Zoning Code Section 1164.02(b) – Maximum Building Square Footage. Buildings shall have a maximum square footage of 8,000 square feet.
 - The main school building along the frontage of the Property does and will continue (under this proposal) to exceed 8,000 square feet as delineated in the Zoning Code. The proposed square footage of the main school building shall be a maximum of 51,000 square feet.
 - *The rear buildings were granted variances to this standard to a maximum square footage of 44,000. Applicant meets this standard with the two (2) 24-unit garden style unit buildings containing 25,500 +/- square feet and 22,500 +/- square feet, respectively.

¹ The variances noted with an asterisk indicate that all of those area variances were obtained by Applicant in August, 2019, as approved by the City of Mt. Vernon Board of Zoning Appeals (“BZA”). The land use approvals (conditional use and area variances) were obtained at the same time, in August, 2019, and demolition started on the Property within 12 months of the approval of those variances. Furthermore, the Zoning Code delineates that use variances may expire within 12 months, but is silent as it relates to area variances. It is our legal position that the area variances granted run with the land and did not expire pursuant to the Zoning Code and Ohio caselaw. However, in the spirit of cooperation, Applicant is applying for the same formerly-approved variances on various buildings to be constructed on the Property and two (2) new variances as it relates to the existing main school building.

- *The middle buildings were granted variances to this standard to a maximum square footage of 36,000. Applicant meets this standard with the middle townhome units building containing +/- 8,250 square feet.
- Zoning Code Section 1174.05(a) – Required Number of Parking Spaces by Use. One, two and multiple family uses shall provide a minimum two (2) parking spaces per dwelling unit.
 - *Applicant obtained a variance to provide a minimum of 1.70 parking spaces per dwelling unit. Applicant is now proposing to provide a minimum of 1.88 parking spaces per dwelling unit; therefore, Applicant meets this standard, as approved. However, Applicant is requesting a variance to renew this same variance request.

Argument

1. The granting of the variances shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Code on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.

Under Zoning Code Section 1174.02, the purpose of the requirement for off-street parking is to promote orderly development of land within the City in accordance with the public's interest in promoting the safety of residents of the City by assuring the orderly handling of vehicles and vehicular traffic. The Site Plan depicts an efficient parking and vehicular circulation area buffered from neighboring land by landscaping, and a majority of such parking and vehicular circulation area is buffered by residential buildings.

2. The granting of the variances will not permit the establishment of any use which is not otherwise permitted in the district.

Zoning Code Section 1164.01(b) includes residential as a conditional use in the Neighborhood Commercial (NC) District. The Applicant filed this variance application in conjunction with a conditional use application. In addition, on August 7, 2019, the BZA approved Applicant's previous request for the same conditional use (for residential uses in the Neighborhood Commercial (NC) District).

3. There must exist special circumstances or conditions which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that strict application of the provisions of this Zoning Code would deprive the applicant of the reasonable use of such land or building.

Due to the reasons specified earlier, the Applicant desires to preserve as much of the main school building as is feasible. The Applicant desires to create a mix of multi-family residential housing types and styles to appeal to various renters. Creating and providing high quality, diverse housing stock to support the housing needs of residents in the City, which also supports the businesses and industries in the City (for employment and shopping), while retaining people to

desire to live, work, and play within the City of Mt. Vernon are the goals of both the City, the Applicant, and the Knox County Comprehensive Plan. This proposal achieves those aligned goals and purposes. Furthermore, the proposed use and development not only is a reasonable use of the Property, but is the highest and best use of the land.

4. There must be proof of hardship created by the strict application of this Zoning Code. Furthermore, the hardship complained of cannot be self-created.

The “practical difficulties” that the Applicant encounters relate to the existing conditions and features of an existing structure. The building is already built and is currently legal, non-conforming. The fact that the existing main school building exceeds both the height and square footage requirements of the modern-day Zoning Code is no fault of Applicant. Applicant is requesting the minimum variances necessary to achieve the development purposes. In addition, Applicant seeks to conform the building and the rest of the development to modern-day development standards, or reasonable variances therefrom, to obtain all necessary land use permits and approvals from the City to reasonably re-develop the Property to support the multi-family residential needs of the City and its residents and to help attract and retain additional residents to the City (as more business and industry is also developed).

5. The granting of the variances is necessary for the reasonable use of the land or building, and the variances as granted are the minimum variances that will accomplish this purpose.

The granting of the variances is necessary in order to provide a multi-family residential development matching the goals of the Knox County Comprehensive Plan and complementing the surrounding area and are standard types of variances granted for infill development – confined to land already created and configured as a legal lot of record. The variances pertain to an existing, non-conforming building, which may be grandfathered (and may not legally require variances). However, Applicant chooses to conform the Property to modern day development standards and request only those area variances that are necessary to preserve the front part of the existing main school building and provide for a historically significant landmark to the City while preserving the unique and high quality architectural features and qualities it contains. Only five (5) area variances are necessary to accomplish this purpose.

6. The proposed variances will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.

The proposed variances will not impair an adequate supply of light and air to adjacent property, or increase the danger of fire, endanger public safety, or substantially diminish or impair property values. Property values in the area will be increased by the demolition of un-sound and unsightly (blighted) structures and the Property re-developed into a high quality, aesthetically pleasing multi-family residential development – which is the perfect transitional use in this

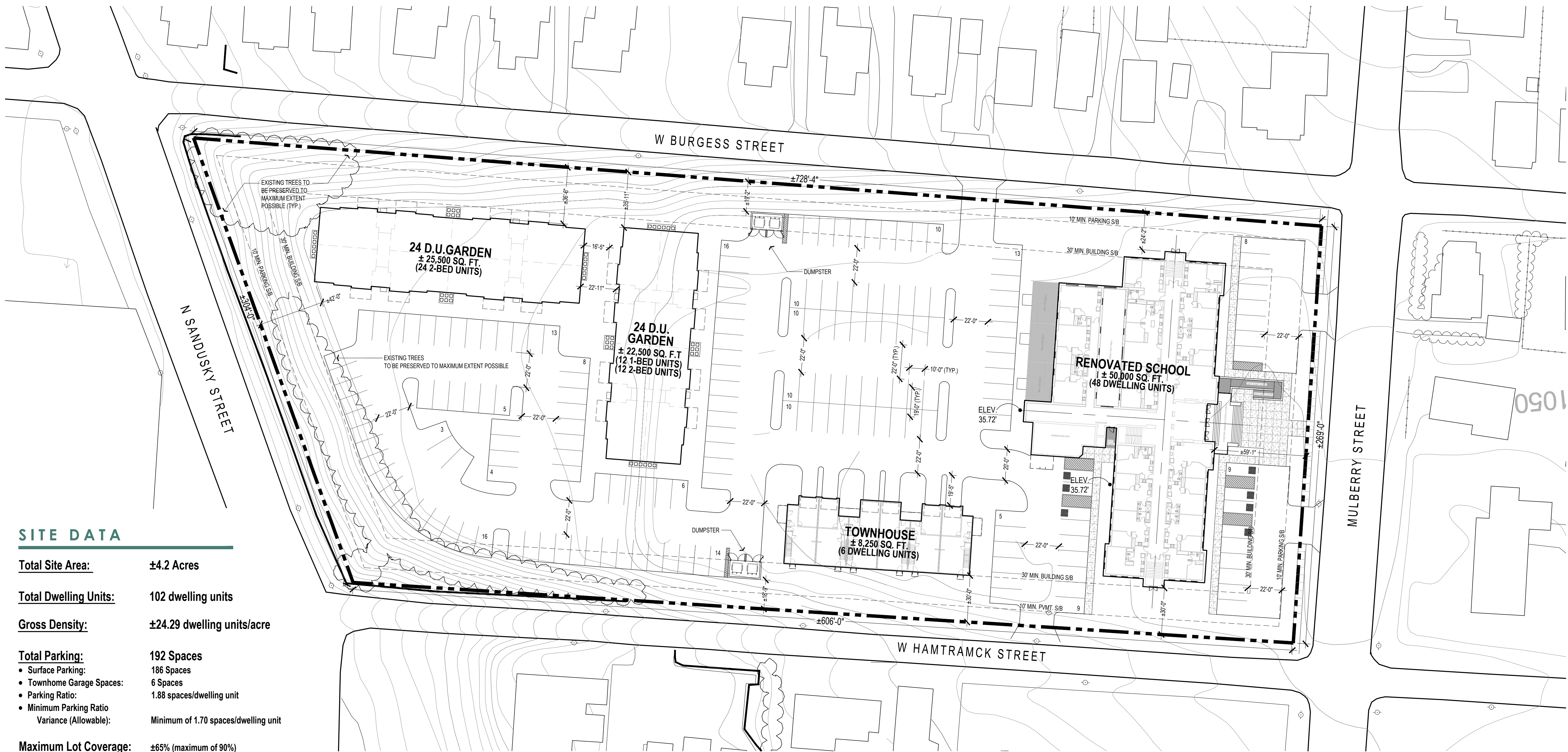
mixed use area between the more intense uses to the south and the less intense, single family residential uses to the north. Although additional traffic will be generated, a multi-family residential use carries far less traffic than the commercial (retail and office uses) that are already permitted on the Property, and traffic concerns and improvements are addressed at the time of a re-zoning, not a request for area variances. There will not be a substantial increase in street congestion.

7. The granting of the variances requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The Applicant is requesting five area variances in order to re-develop a Property with efficient parking and vehicular circulation that is buffered from neighboring properties, and the variances actually pertain to a building structure and façade that is already existing (as an existing condition). Most certainly, approval of the variances requested will not provide the Applicant with any special privilege that is denied to other lands, structures, or buildings in the area.

Exhibit "F"
Site Plan

4.1.f



SITE DATA

Total Site Area:	±4.2 Acres
Total Dwelling Units:	102 dwelling units
Gross Density:	±24.29 dwelling units/acre
Total Parking:	192 Spaces
• Surface Parking:	186 Spaces
• Townhome Garage Spaces:	6 Spaces
• Parking Ratio:	1.88 spaces/dwelling unit
• Minimum Parking Ratio	
Variance (Allowable):	Minimum of 1.70 spaces/dwelling unit
Maximum Lot Coverage:	±65% (maximum of 90%)
(structures/pavement)	

Building Setbacks:	
• Front Yard Setback	30 feet from Right-of-Way
• Side Yard Setback	30 feet from Right-of-Way (due to fronting on a street)
• Rear Yard Setback	30 feet from Right-of-Way (due to fronting on a street)

Parking Setbacks:	
• Front Setback	10 feet from Right-of-Way
• Side Setback	10 feet from Right-of-Way
• Rear Setback	10 feet from Right-of-Way

Parking Standards:	
• Parking Space Dimensions:	10 feet by 19 feet
• Drive Aisles:	20 Feet
• Parking Aisles:	22 Feet

Existing School (Renovation) - 48 Units:

- 50,000 square feet (allowable 8,000 square feet)
- 48-50 feet in height (allowable 30 feet)

Townhomes:

- 8,250 square feet (allowable by variance, 36,000 square feet)
- 35 feet in height (allowable by variance, 36 feet)

24-Unit Garden Unit Building:

- 25,500 square feet (allowable by variance, 44,000 square feet)
- 45 feet in height (allowable by variance, 50 feet)

24-Unit Garden Unit Building:

- 22,500 square feet (allowable by variance, 44,000 square feet)
- 45 feet in height (allowable by variance, 50 feet)

301 N Mulberry - Development Plan

Mt. Vernon, OH 12.21.2020