



## **Bexley Board of Zoning and Planning**

### **Planning Staff Report – January 23, 2025**

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#### **Conditional Use Permit, Variance, and Certificate of Appropriateness: 2300 E. Livingston Avenue**

**Application #:** BZAP-24-49

**Location:** 2300 E. Livingston Avenue

**Zoning:** Mixed Use Commercial (MUC) District and Livingston Avenue (LA) District

**Request:**

Conditional Use Permit:

- The applicant is seeking a conditional use permit per Bexley code section 1254.09 to permit first floor residential use within a new multi-family building in a Mixed Use Commercial District.

Variance:

- The applicant is seeking a variance to waive the fence requirement per Bexley Code section 1264.05, to allow less height at the eastern portion of the fence.

Certificate of Appropriateness:

- The applicant is seeking site plan and architectural review and approval to allow a 3-story residential structure.
- The applicant is seeking approval to allow demolition approval for the existing structure.

**Applicant:** Bill Downing

**Owner:** Bexley Apartments LLC

#### **A. STAFF RECOMMENDATION**

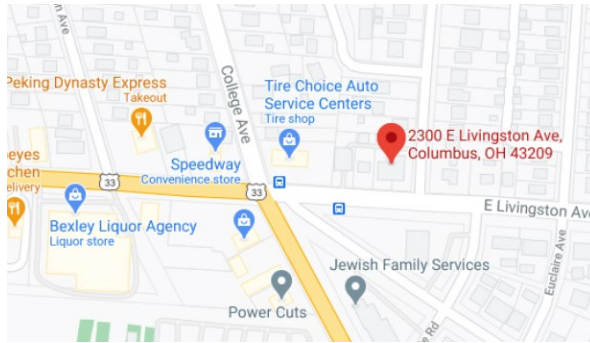
Staff recommends approval a conditional use permit as per the review criteria (1226.12), to allow first floor residential in a MUC District (1254.11).

Staff supports the Architectural Review Board, which has not yet offered a recommendation, other than that the applicant return to the ARB for review of the building design with regard to a certificate of appropriateness, as per the design standards in the LA District.

The BZAP will review the variance request based on the review criteria (1226.11(c)) cited below in this report.

Should the BZAP choose to act on the Conditional Use Permit, Variance and/or Certificate of Appropriateness request, staff recommends conditions of approval as listed at the conclusion of this report.

## B. BACKGROUND



The site is located on the northwest corner of E. Livingston Avenue and Francis Avenue.

**Zoning:** The project is located in the Mixed Use Commercial District (MUC) (1254.03) and the Livingston Avenue District (LA) (1254.05).

## C. CONSIDERATIONS

### Plan Conformance

The City of Bexley adopted a Diversity Equity & Inclusion Strategy on August 11, 2020, as an amendment to the Bexley Strategic Plan. One of the primary goals of the plan is:

#### ***Goal #3: Create an Inclusive Greater Bexley Community***

*Form an open and welcoming Bexley. Work to combat racism and discrimination in the City. Engage people and circumstances with fairness, justice, impartiality, honesty, balance, compassion, decency, reasonableness, and an open mind.*

Each goal includes specific action items, and the one most directly related to this application is:

#### ***Goal Three Action Items***

*2. Continue to encourage the CIC in their efforts to identify affordable housing opportunities for people with low incomes as part of new development (including but not limited to rezoning and rehabbing current and future building and projects) as well as on its own.*

The project is also in conformance with several other plans and project initiatives for the area, described later in this report.

### Site Impacts

The proposed building location is properly sited to meet the intent of planning and the code standards for redevelopment along the Livingston Avenue corridor. This includes how the building establishes proper street frontage, that a walkable and aesthetically appealing streetscape is created, and that parking is located to the rear of the building. The Livingston Avenue (LA) District site development regulations apply to this site and an assessment of the proposal with regard to those requirements is provided in the table below. As in all Livingston Avenue development, some key site elements should be considered by the BZAP, including:

- The manner in which the building addresses the Livingston Avenue corridor and how public space is provided along that corridor.
- Overall considerations regarding building massing.
- Site access for passenger and service vehicles, transit users, as well as pedestrians and bicyclists. Impacts of site access on the adjacent street and sidewalk network and linkages to the greater mobility network.
- The interface with adjacent properties, particularly the single family to the north regarding screening for the parking area.

Staff has determined that the proposed site plan is highly in conformance to the site planning standards established in the LA District

### **Site Access**

A significant positive aspect of the site plan is the removal of two existing curb cuts on Livingston Avenue. This increases safety on Livingston Avenue and improves the ability to create a continuous pedestrian facility as part of the upcoming Livingston Avenue streetscape project.

### **Livingston Avenue District (LA) Design Standards**

The proposed development meets the standards of applicability for review under this section (1254.12(a) through (d)). The application has been evaluated according to the applicable design standards as follows:

LA District Design Standards		Met / Not Met
	(e) A principal building shall be oriented to address and be nearly parallel to a primary street. Nearly parallel means within 15 degrees of being parallel.	Met
	(f) The minimum building setback along public rights-of-way is eighteen (18) feet from the curb. The maximum building setback is thirty (30) feet from the curb, except where a Public-Private Setback Zone is provided. Where a Public-Private Setback Zone is provided, a maximum setback of forty (40) feet from the curb is permitted for up to 50% of the building frontage, provided that a major portion of such setback shall be used to create outdoor pedestrian spaces and landscape features.	Met
	(g) The width of a principal building along a primary building frontage shall be a minimum of eighty (80) percent of the lot width. For those properties with a conditional use for a drive-thru, BZAP may permit the drive-thru width to count toward this minimum primary building frontage requirement as a condition of the use.	Met
	(h) A principal building shall have its main front door facing and directly accessed from Livingston Avenue. This can include placement of the door at the corner of the building frontage and angled to address both Livingston Avenue and the side street or an adjacent area of the site.	Met
	(i) A principal building shall have four-sided architecture utilizing consistent design and materials on each side.	Generally met – further review needed by ARB
	(j) A building frontage that exceeds a width of 50 feet shall include vertical	Generally met –

	piers or other vertical visual elements to break the plane of the building frontage. The vertical piers or vertical elements shall be spaced at intervals of 15 feet to 35 feet along the entire building frontage. The use of windows and design features shall be used to break up large expanses of building walls on all exposed sides of a building.	further review needed by ARB
	(k) For a primary building frontage of a commercial use, a minimum of 60 percent of the area between the height of two feet and ten feet above grade shall be in clear window glass that permits a full, unobstructed view of the interior to a depth of at least four feet. For the secondary building frontage, the pattern of window glass shall continue from the primary building frontage a minimum distance of ten feet.	N/A
	(l) For any new installation or replacement of upper story windows, the new/replacement windows must be clear/non-tinted glass.	Met
	(m) At least 30% of the second and third floor building frontages (as measured from floor to ceiling) must be window glass. This requirement may be waived if historic documentation (e.g. historic photos) from when the building was first constructed can be provided that shows a different percentage of window glass was used on the second and third floor building frontages. In such cases, the historic percentage must be maintained.	Generally met – further review needed by ARB
	(n) All roof-mounted mechanical equipment shall be screened from public view to the height of the equipment. The design, colors and materials used in screening shall be architecturally compatible with the rooftop and the aesthetic character of the building.	To be determined
	(o) No outdoor vending machines shall be located as to be visible from Livingston Avenue or any side street.	Met
	(p) Backlit awnings are not permitted.	Met
	(q) Sidewalks are required along all public streets. Sidewalks shall be clear of obstructions and align with adjacent sidewalks.	Met
	(r) The recommended minimum width of public sidewalks on Livingston Avenue is twelve feet (12'), however protrusions into the public right-of-way and sidewalks for outdoor pedestrian seating and other landscape features are encouraged, provided that a minimum clear sidewalk width of eight feet (8') is maintained.	Met – further discussion regarding Livingston streetscape project needed
	(s) Landscape plantings, features, and pedestrian amenities shall be developed to create and accent pedestrian areas, and to soften the use of hardscape within the pedestrian zone.	Generally met – further review needed by T+PG
	(t) Street trees shall be required along all street frontages. The minimum number of shade trees required is determined by the formula of one tree per 30 lineal feet, or fraction thereof, of frontage.	Generally met – further review needed by T+PG
	(u) At the time of planting a new shade tree shall have a minimum 2.5 inch caliper trunk and new shrubs for screening shall have a minimum height of 24 inches, and be maintained at that height or greater.	Generally met – further review needed by T+PG
	(v) In areas without a grass tree lawn, a 2' brick accent strip shall be installed adjacent to the curb line.	Met – further discussion regarding Livingston streetscape project needed

	(w) For all street tree planting beds, a 6' wide tree well with a minimum exposed space of 60 square feet shall be provided and edged in limestone curbing.	Met – further discussion regarding Livingston streetscape project needed
	(x) Landscape plantings shall be developed to break up expanses of pavement within off-street parking areas.	Generally met – further review needed by T+PG
	(y) All such landscape plantings and features shall be properly maintained, weeded, and watered, and any loss of plant materials shall be replaced in keeping with the approved landscape plan, or within minor modification to the landscape plan according to City Staff approval. The installation and operation of an irrigation system may be required for any planting area. In such cases, the irrigation system must remain operable.	Generally met – further review needed by T+PG
	(z) The use of landscape features such as pedestrian furniture, decorative railings, tree guards, trash receptacles, bollards and similar such accessories shall reference the Joint Livingston Avenue Plan.	Generally met – further review needed by T+PG
	(aa) A fence shall be provided along a lot line that borders a residentially zoned or used property at a height of 8 feet, as per the requirements in Section <u>1264.05</u> .	Generally met – Variance requested for height at eastern end
	(bb) A surface parking lot or vehicular circulation area shall be screened from all abutting public streets with a minimum 4-foot solid masonry or stone wall; or a minimum 4-foot decorative metal tube or solid metal bar fence (excluding chain link, wire mesh or other similar material), with a minimum 3-foot wide landscaped area along the parking lot side of the fence.	Generally met – further review needed by T+PG
	(cc) Landscaping is needed for surface parking lots in order to further screen parking from the view of public rights-of-way, provide mitigation for stormwater through reducing, slowing and cooling runoff, and to create visual relief from large pavement areas. This landscaping might be in well-designed border plantings that frame the lot or within landscape beds large enough to sustain plant growth.	Generally met – further review needed by T+PG
	(dd) Dumpsters shall be located behind the principal building and be screened from public view on all 4 sides, to the height of the dumpster.	Met
	(ee) Ground-mounted mechanical equipment shall be located behind the principal building and be screened from public view. Materials and design for ground-mounted screening shall be a masonry wall one foot taller than the utility/mechanical unit it screens and be compatible with the building materials and architectural design.	To be determined
	(ff) The height of any parking lot light pole/fixture shall not exceed 18 feet above grade.	No pole lighting in parking area indicated – to be clarified by applicant
	(gg) When located within 25 feet of a residential district the height of a light fixture shall not exceed 14 feet above grade.	No pole lighting in parking area indicated – to be clarified by

		applicant
	(hh) All lighting must use cut-off type fixtures, to limit glare, and avoid directing light onto neighboring property, streets, or toward the night sky.	To be determined
	(ii) Paved areas for vehicular use, including parking, stacking and circulation aisles are not permitted between the principal building and a street right-of-way line. This standard does not apply to existing buildings unless they are expanded by fifty (50) percent or more in gross floor area.	Met
	(jj) Additional curb cuts are not permitted	Met
	(kk) The maximum number of off-street parking spaces shall be one stall per 200 square feet of net floor area (5 per 1000), except for institutional uses.	Met
	(ll) Minimum parking ratios are as established in the code.	Met

### **Parking**

In the Mixed Use Commercial (MUC) District, the parking requirements are determined per code section (1262.02). Calculations provided below:

Parking standards	Required for 2300 Livingston proposal
Residential: 1 per unit	27 spaces
<b>TOTAL REQUIRED:</b>	<b>27 spaces</b>
<b>ON-SITE PROVIDED:</b>	<b>27 spaces</b>

The applicant has provided 27 off-street parking spaces, including two handicap accessible spaces. This meets the code parking requirement for the site.

### **Conditional Use Criteria**

Under the code, the following establishes the framework for consideration of conditional use requests:

From (1226.12(b): The Board of Zoning and Planning shall have the power to approve applications for Conditional Uses specified in Chapters 1252 and 1254. The proposed use shall be approved if, and only if, it meets the intent of this Zoning Code and the intent of the zoning district in which the property is located, fits harmoniously with adjacent uses and structures and complies with all other provisions of this Zoning Code. The Board of Zoning and Planning has no obligation to approve a Conditional Use. This Zoning Code assumes that conditionally permitted uses are not appropriate unless an applicant proves that the use will not be detrimental to the public health, safety, or general welfare of the City or the neighborhood in which it is proposed. Such uses shall only be approved if the applicant proves all the following factors are met:

Conditional Use Criteria
(a) The use is consistent with the goals and policies of any adopted plans of the City of Bexley, including, but not limited to, the Main Street Guidelines.
(b) The use will not have a negative impact on the neighboring land uses and the larger

	community because of the differences between the proposed use and existing uses in the community.
(c)	The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
(d)	The property, and any proposed modifications, meet or satisfy the lot/yard or height requirements in the code and other general code provisions including landscape requirements, parking standards, and storm drainage requirements as existing or as may be adopted, except that BZAP may grant minor area variances necessary for the proposed conditional use.
(e)	The use does not create an undue burden on existing public facilities and services such as street, utilities, schools or refuse disposal.
(f)	The use is consistent with and/or furthers the City's economic goals and will not decrease property values or have a negative economic impact.
(g)	The use is in character and keeping and compatible with the adjacent structures and uses.
(h)	Any proposed construction will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

Staff recommends that the criteria have been met for conditional use allowing residential on the first story of the proposed 3-story building according to the following:

- (a) Livingston Avenue is predominantly residential to the east of this site throughout Bexley, consistent with adopted plans. The **2013 Bexley Strategic Plan** calls for redevelopment of this portion of Livingston Avenue as well as long-term affordable housing options within Bexley. The **2017 Southwest Bexley Strategic Framework** specifically cites the need for affordable housing in the area and references the need to create new affordable housing in advance of significant changes to Mayfield/Ferndale. The plan does advocate for active commercial uses on the first floor of the Livingston Corridor; however, it also designates for this site to be residential use. The **2020 Diversity Equity & Inclusion Strategy** calls for affordable housing opportunities for people with low incomes as part of new development. This includes a recommendation including but not limited to rezoning. The **2022 Joint Livingston Avenue Plan** establishes a vision for the corridor that is focused on creating a walkable streetscape and development environment. The plan includes detailed recommendations for sidewalks, separated multi-use trails and site development approaches to increase safety, urban character, and overall aesthetics of the corridor. Funds have been dedicated to complete a full reconstruction of the **Livingston Avenue Streetscape** from the Alum Creek Bridge on the west, to S. Kellner Road on the east. That project is currently in the detailed design phase with construction anticipated in the next several years. Project goals are to meet the recommendations of the Joint Livingston Avenue Plan as well as possible, and preliminary designs include creating a wide urban sidewalk area for portions within MUC District on Livingston and a 10' continuous shared use path (SUP) along the remainder of the north side of the roadway. A 10' continuous SUP is also the likely design for the south side of the street.
- (b) This land use is more similar to the uses to the rear (north) and east of the site than the previous use.
- (c) This use will not be hazardous. Impacts should be equal or less intense than an operating business at this site, as per those permitted in the MUC and LA Districts.



- (d) The proposed site plan highly conforms to the adopted code standards.
- (e) The use does not create an undue burden on public facilities.
- (f) The use is consistent with the City’s economic goals and will not decrease property values. This multi-story new construction will be a significant investment in the site.
- (g) The use is compatible with adjacent structures and uses. Three story buildings are permitted on this site.
- (h) No natural, scenic or historic features exist on the site.

### **Variance Criteria**

Under the code, the following establishes the framework for consideration of variance requests:

From (1226.11(b): On a particular property extraordinary circumstances may exist, making a strict enforcement of the applicable requirements of this Code unreasonable, and therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the BZAP or City Council shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

From (1226.11(c): BZAP and City Council shall only approve a request for an area (non-use) variance in cases where the evidence demonstrates that the literal enforcement of this Code will result in practical difficulty and the granting of a variance complies with the purpose and intent of this Code. The following factors shall be considered and weighed by the Board when making a determination upon any (non-use) variance by a preponderance of the evidence:

Area (Non Use) Variance Criteria	
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.
2)	Whether the variance is substantial.
3)	Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
4)	Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
5)	Whether the property owner purchased the property with knowledge of the zoning restriction
6)	Whether the property owner's predicament feasibly can be obviated through some method other than a variance
7)	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

The applicant will provide a narrative describing how they believe the proposed project meets this set of criteria for the Board to use in considering the request for the variance requested.

- The applicant is seeking a variance to allow the required property fence to step down in height as it approaches Francis Ave, waiving the fence height requirement for a portion of the fence per Bexley Code section 1264.05.
  - *1264.05 REQUIRED COMMERCIAL FENCES ADJACENT TO RESIDENTIAL DISTRICTS: For commercial uses abutting a residential zoning district, a fence, wall or combination thereof shall be installed along the lot line of adjacency except as otherwise determined for adjacent uses contained in the same Planned Unit Development District. Commercial uses with residential zoning districts*



*located directly across a public alley must also meet this requirement along the interior alley line, subject to sight triangle requirements required by the City Building Department. (a) The height shall be ninety-six inches, as measured from the average grade of that portion of the lot.*

#### **D. ADDITIONAL COMMENTS**

##### **Architectural Review Board Recommendation**

The ARB reviewed the application at their January 9, 2025, meeting. The ARB Decision and Record of Action regarding this application states:

- *That the Architectural Review Board moves this application to the Board of Zoning and Planning without a recommendation. The ARB does not feel a recommendation in the positive or negative is appropriate at this time and would like to see the following issues explored and the application remanded back to the Architectural Review Board for design approval and a Certificate of Appropriateness:*
  - *Massing*
  - *Incorporation into the Livingston joint plan*
  - *Building details/massing/rooflines*
  - *Proximity to parks and city recreational areas*
  - *Study of the residential character of the building in this mixed use commercial district*
  - *All other issues addressed at the meeting of the ARB and reflected in the meeting minutes*

#### **E. RECOMMENDED CONDITIONS**

Should the Board of Zoning and Planning choose to act on the certificate of appropriateness request, staff recommends the following conditions:

1. The applicant returns to the ARB to receive design approval and a Certificate of Appropriateness, including review of architecture, mechanicals screening, exterior lighting, fence and enclosure details.
2. That the application be reviewed by the Bexley Tree and Public Gardens Commission.
3. The streetscape frontage be in conformance with the selected design for the Livingston Avenue streetscape project.
4. That the site modifications, design and materials will be in substantial conformance with the renderings and plans submitted at the January 23, 2025, Board of Zoning and Planning meeting unless otherwise modified in collaboration with the ARB and staff.