

## Planning Commission

### Meeting Minutes

August 15, 2016

7:00 p.m.

New Albany Planning Commission met in regular session in the Council Chambers of Village Hall, 99 W Main Street and was called to order by Planning Commission Chair Neil Kirby by at 7:05 p.m.

Neil Kirby	Present
Brad Shockey	Absent
David Wallace	Present
Marlene Brisk	Present
Bill Steele	Present
Sloan Spalding (council liaison)	Present

Staff members present: Stephen Mayer, Planner; Ed Ferris, City Engineer; Mitch Banchefsky, City Attorney and Pam Hickok, Clerk.

Mr. Wallace moved to approve the July 18, 2016 meeting minutes as corrected, seconded by Ms. Brisk. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Ms. Brisk, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby asked for any changes or corrections to the agenda.

Mr. Spalding asked if we could move the final agenda item to the beginning of the agenda.

Mr. Mayer would like to add fall meeting schedule under other business.

Mr. Kirby swore to truth those wishing to speak before the Commission.

Mr. Kirby's invited the public to speak on non-agenda related items and received no response.

Mr. Wallace moved to accept the staff reports and related documents in to the record, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

### **CU-62-2016 Conditional Use**

**Conditional use for a residential model home located at 7405 Steeplechase Lane within the Millbrook Farm at Sugar Run subdivision (PID: 222-004202).**

**Applicant: Pulte of Central Ohio, LLC**

Mr. Stephen Mayer presented the staff report.

Mr. Ferris stated no engineer comments.

Mr. Todd Kellner, Pulte Homes, stated that he is here to answer any questions. The home is currently under construction. Hope to have it staffed and operating by the end of September. The flagpole is a 25' pole with the American flag and a corporate flag. The corporate flag is not necessary. The sign is located about 4.5 feet from the right of way. Small sign and need that location for visibility from the intersection. We will move it back if required but would like it as close as possible to the intersection. The adjacent lots on either side are on hold to provide the on street parking. We will have one sales representative with a second representative may be present temporarily. The garage will serve as the sales center. Will answer any questions.

Mr. Spalding asked about the illumination of the sign.

Mr. Kellner stated that we like to illuminate the sign because in the winter we are open until 6pm and it will be dark before close in the winter. If the commission would approve the illumination with a condition that we shut if off after model home hours.

Ms. Brisk asked if the how the sign would be lit.

Mr. Kellner stated that the light shown is the street/sidewalk lights.

Mr. Kirby asked if the front sidewalk goes to Millbrook.

Mr. Mayer stated that the front elevation will go to Steeplechase and the sales office sidewalk will go to Millbrook.

Ms. Brisk asked about the sign illumination.

Mr. Kellner stated that we have two up light on either side of the sign and an up light on the flag.

Mr. Kirby stated that we have not seen an up lit sign that didn't have spill problems. Asked if the sign code allows for top light washing down.

Mr. Mayer responded.

Mr. Kellner stated that the led light detail is shown on the plan.

Mr. Kirby stated that I will vote no on an up lit sign because it took 2-3 tries to fix the police department signage spill problems.

Mr. Steele asked what time they will close.

Mr. Kellner stated that they close at 6:00 and should be out of the office shortly afterward.

Mr. Wallace asked if staff has a recommendation on the flagpole.

Mr. Mayer stated that we do not have a recommendation.

Mr. Wallace asked if we have any other homes with flagpoles.

Mr. Mayer stated that we are not aware of any other model homes with flags.

Ms. Brisk asked if this is typical of their model homes.

Mr. Kellner stated yes. Out of every ten model homes only one may not have the flagpole. Having the model home approved is the goal, we will do whatever you decide on these minor details.

Mr. Spalding stated that the staff report condition is for two years but it appears they requested until all homes are sold.

Ms. Joly stated that our convention is two years and then they could come back to request an extension.

Mr. Steele asked if the flagpole would be removed when the model home is done.

Mr. Kellner stated yes that is what we typically do. We treat this as our retail center. We don't put in the driveway, we landscape this area and have a sidewalk to make it more inviting.

Mr. Kirby stated that he doesn't mind if the flagpole stays as long as they don't fly the corporate flag.

Ms. Joly stated that we didn't know what type of flag.

Mr. Kirby asked if on street parking is permitted on both sides of the streets.

Mr. Kellner showed on the map which lots will be on hold to allow for on street parking next to the model home.

Mr. Kirby stated that if parking is permitted on both sides of the street then when you're ready to release those lots for building then parking can occur on the other side of the street. It helps your parking.

Mr. Wallace asked if the corporate flag meets the code requirements.

Mr. Kellner stated that we have a 3x5 corporate flag and 4x6 American flag.

Mr. Wallace clarified the second sign.

Mr. Mayer stated that it is the model home sign and the flag.

Ms. Brisk stated that this has many options; flag pole, American flag, corporate flag, illumination of flagpole, sign, sign illumination and sign location.

Mr. Kirby stated that if we don't allow illumination then the flag needs to come down at dark.

Ms. Brisk stated that she doesn't have any issues with the flag. I would lean towards lighting the flagpole and not the sign.

Mr. Steele asked how far the flag pole is from the sign.

Mr. Kellner stated that it is 2-3 feet.

Mr. Kirby stated that he would prefer no illumination of flagpole.

Mr. Wallace stated that we should have a condition on the flag sizes.

Mr. Spalding stated that sign location is the last issue.

Mr. Kellner stated that we would prefer the proposed location and showed on the map where the sign would be located per code requirements.

Mr. Kirby confirmed that the sign setback is 10' from which road since this is a corner lot.

Mr. Wallace stated that we can add the condition that it needs to be 10' from right of way.

Mr. Wallace moved to approve CU-62-2016 subject to the following conditions:

1. The Conditional Use Permit will become effective at the time of Certificate of Occupancy is granted.
2. The Conditional Use Permit is permitted for two (2) years and that any extension in time is subject to review and approval by the Planning Commission.
3. The model home sign and flag pole is not illuminated per code requirements and the model home sign is setback to the minimum of ten (10) feet from the right of way. .
4. The sign associated with this application is removed at the time that the permit expires, seconded by Mr. Kirby. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

**V-51-2016 Variance**

**Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool at 10 Highgrove (PID: 222-004492).**

**Applicant: John A. Gleason**

**V-52-2016 Variance**

**Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool at 11 Highgrove (PID: 222-004493).**

**Applicant: John A. Gleason**

Mr. Mayer presented the staff report.

Mr. John Gleason, representing the homeowners for 10 Highgrove and 11 Highgrove. Handouts were provided to the board members. He stated that the homeowners for each property are present tonight. Since the last meeting we have had discussions with both New Albany Company and the New Albany Communities Architectural Review Committee. We believe the requested variances are appropriate given the size, location and accessibility and the fact that there is fencing around both properties. In short, section 1173.02 is satisfied because the pools are enclosed and will effectively prevent a child from crawling or otherwise passing through or under the fence or barrier. We believe that has been done. I think the narrative we provided addressed the Duncan factors as well as the criteria set forth in 1113.06. We did take to heart the issues raised in the staff report and comments from commission members. It is noted in the staff report that variances have been granted when certain factors are present. The first is the property has limited access and no rear neighbor. The second is the substantial landscaping/mounding, horse fence and the property size impedes public access. The third is that the applicant has proposed an ASTM pool cover. In applying these factors, the staff report agrees that these properties appear to have limited access. I believe that we have satisfied the first factor. We understand that variances have been approved with the use of a pool cover. A pool cover is not available due to the shape of these pools. There is an ASTM compliant pool net. Both homeowners have agreed to install the pool net. In regards to landscaping, there is no rear neighbor and the golf course is there. The homeowners have agreed to add significant amount of landscaping. If you look at 10 Highgrove, will be adding trees installed at 6-8 feet. Working with ARC to determine the type of year round tree to install. In addition, we would add a 30-36" hedge around the pool. This would provide three barriers; a fence, trees and the hedge. Likewise in respect to 11 Highgrove, there would be additional trees along the back property line and a 30-36" hedge will provide substantial landscaping and barrier. We believe that landscaping will look better than two fences. We think these additions make these applications more closely aligned to other applications that have been approved. The horse fence goes back and forth between the homeowner's property and golf course property. We discussed with NACO and this is not uncommon. I think we have decided to work together to get it resolved but don't know the best way to do it at this time.

It may be a combination of things including a reciprocal easement or deeding some property to the homeowners.

Mr. Kirby stated that the maintenance of the pool fence must be the responsibility of the pool owner.

Mr. Gleason stated that we are willing to add a deed restriction stating that the maintenance of fence is the property owners and if they are not adequately maintained by NACO then the property owners would have responsibility. We don't know if NACO will agree to that.

Mr. Kirby asked if it creates a problem to add a condition that a third party could deny.

Mr. Banchefsky stated that we would want that agreement prior to approval.

Mr. Gleason stated that I think that staff agrees with the first issue and we have addressed the other two issues. These two variances would be in line with other variances that have been approved. We will agree to the maintenance.

Mr. Kirby asked what the distance is from 11 Highgrove to 12 Highgrove building to building.

Mr. James Dulick, 11 Highgrove, stated that the neighbor is 10 feet from my property line and my house is 20-30 feet from the property line.

Mr. Kirby stated that they are about 40' to the closest neighbor. There is a difference in scale. You don't have remoteness met.

Mr. Gleason stated that 12 Highgrove has a five foot wrought iron fence.

Mr. Steele asked if the pool nets would be in place at all times.

Mr. Dulick stated yes. It would be professionally installed. The pool net is basically on hooks. Similar to a winter pool cover but much faster to open and close.

Mr. Gleason stated that it takes about 5 minutes in the brochure included.

Mr. Wallace verified that it is manual installation.

Mr. Gleason stated yes.

Mr. Wallace asked if they have any safety information regarding the safety nets versus fence.

Mr. Gleason stated that it is ASTM compliant.

Mr. Kirby stated that ASTM tells you how it is built and how strong it is not how safe it is.

Mr. Gleason stated that he would be willing to find additional information regarding the safety.

Mr. Wallace stated that this is not sufficient information to decide if the safety net is sufficient.

Mr. Kirby stated that the in the last minutes we asked for equivalent life safety information. Could be provided by a third party such as an insurance company or university study. ASTM provides how strong it is not how safe it is.

Mr. Gleason stated that I believe the additional landscape, the location of the home does satisfy the code of passing through or under. I understand the issue of going over but with the fence and hedges.

Mr. Kirby asked if the hedge connects to a code compliant fence.

Mr. Gleason stated that it will connect to the black wrought iron fence. It would be as difficult to go over a 3 feet hedge that is wider than over a 4 foot fence.

Mr. Wallace asked if either applicant has submitted a landscape plan for review.

Ms. Joly stated that we received this information this afternoon.

Mr. Gleason stated that we are understanding that a condition may be added to have the landscaping approved per staff.

Mr. Kirby asked if ARC has a maximum height for the hedge. Can you ask ARC for the hedge to be taller? That needs to be part of the landscape plan because the hedge will die in the middle if too tall or too wide.

Mr. R.J. Nowinski, 10 Highgrove, stated that both of our homeowner's insurance agents have been to our property and did a full inspection of the current fencing. We were accepted for full coverage. Mr. Dulick stated that he was accepted for full coverage as well.

Mr. Kirby asked if he had written confirmation.

Mr. Nowinski stated not with me.

Mr. Kirby stated that would be great to have.

Ms. Brisk stated that we should not vote on this without more specifics. I think it would be much better for you if we tabled this one more time. I would like to

see more answers regarding the tree type, fence maintenance and the ARC issues.

Mr. Gleason stated that we have been working through this process. The pools have been there for years and have not had any issues. If the commission would be willing to grant an extension. We can provide additional information regarding pool netting, ask the insurance company for a letter and provide a more formal landscape plan.

Mr. Kirby stated that the landscape architect needs to address the hedge density. If we are going to treat the hedge as a fence then it will have a maintenance condition.

Mr. Wallace stated that he would like to see a landscape plan that shows the hedge location including connections to the existing barriers.

Mr. Kirby stated details such as the picture that was shown tonight showing the connection of the two fences.

Mr. Nowinski used the map to explain the location of the white horse fence.

Mr. Kirby stated that you would need permission from ARC to maintain the fence.

Mr. Kirby asked if we have a problem with 11 Highgrove.

Mr. Dulick stated that I will not have that hedge as the barrier because I have a walkway that would need to remain open. I will have the hedge to block the view. I would consider the hedge as one added layer.

Ms. Brisk asked where the current black fence is located.

Mr. Dulick showed on the map.

Mr. Kirby stated that your fences encloses the entire back yard.

Mr. Nowinski stated that he has existing 8-10ft arborvitae.

Ms. Brisk asked Mr. Nowinski to show his fence location.

Mr. Nowinski showed on the map.

Mr. Wallace stated that this conversation has provided some options to meet the spirit of code. You should be trying to provide some equivalent approach to meet the code and keep New Albany safe. I think we need to see more than we have tonight.



Mr. Kirby asked if one month was sufficient.

Mr. Gleason stated that he would prefer two months to ensure he could get the information.

Mr. Steele provided a picture of a tempered glass fence as a potential alternative.

Mr. Kirby moved to table V-51-2016 for two months until the October regular scheduled meeting, seconded by Ms. Brisk. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby moved to table V-52-2016 for two months until the October regular scheduled meeting, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

#### **V-55-2016 Variance**

**Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool at 7010 Lambton Park (PID: 222-002598).**

**Applicant: Richard Langdale**

Mr. Mayer presented the staff report.

Mr. Rich Langdale, homeowner, stated that it is pretty far from anyone and installed a pool cover ten years ago. We haven't had any problems. We would like to leave it as is but if not possible we would like some more guidance.

Mr. Kirby asked about current fencing.

Mr. Langdale stated that we have the horse fence along the rear of the property. When we built we were told that the spirit was being met with the pool cover.

Mr. Kirby asked who told them.

Ms. Paige Langdale stated that Preston Hale stated that it met the intent of the code. She stated that we also have eight acres.

Mr. Kirby stated that the original code required a five foot fence when this house was built. We would presume that we received a submission that included a five foot fence.

Ms. Joly stated that it has been about ten years. We don't have a pool permit on file anymore. We found a note about a meeting regarding the pool but no notes on the outcome of the meeting. Preston Hale was the CBO.

Mr. Wallace asked if the pool was built at the same time as the house. Wouldn't the builder have the information?

Ms. Joly stated that it is always a separate pool permit and sometimes a separate fence permit.

Mr. Wallace stated that it is important to know what was approved in the past.

Mr. Langdale stated that the pool was installed with the house and completed prior to occupancy.

Ms. Langdale stated that about five years ago Tom Rubey and Jennifer Chrysler came to the house to discuss a fence.

Ms. Joly stated that records retention policy states that pool permits. The building permit contractor probably didn't pull the permit for the pool.

Mr. Wallace asked if they knew the pool contractor that installed the pool.

Ms. Langdale stated yes.

Mr. Kirby stated that if you could find any paperwork.

Ms. Langdale stated that the pool was completed in summer 2005 and we moved in December of 2005.

Ms. Brisk stated that you could check with the pool contractor to see if he has any paperwork.

Mr. Wallace stated that if you have something it could help or hurt you.

Mr. Langdale stated that we will look for that but what should our plan B be.

Mr. Kirby stated that no one left here without any fence.

Mr. Wallace stated that the idea is and you don't want to install a fence then persuade this group that it meets the spirit of the ordinance which is all about safety.

Mr. Langdale stated that I understand that other lots have been approved in the farms that is similar to our lot.

Mr. Kirby stated that the Farms have a gate around the entire community.

Ms. Brisk stated that in your favor is the size of the lot and the distance from the roadway but my concern is the empty lot. At some point it won't be an empty lot anymore.

Mr. Langdale using the map showed where they were considering building a pool house. If we built that and added a fence to connect the pool house to the horse fence.

Mr. Kirby stated that in the variance that was most recently approved, when you get out of the pool you run into a fence or go in the house.

Ms. Brisk stated that don't care where the fence is located as long as it prevents access from other properties. I would advise you to sit down with staff to discuss options.

Ms. Joly stated that our intent with the staff report was looking at the side property line approaches or you could just enclose the pool itself. We could work with you.

Ms. Langdale stated that we don't like how close we are to the golf course.

Ms. Brisk stated that aesthetics that people are not happy with but we need to be concerned with the safety of the people in New Albany. It may not be ideal by if it meets the spirit and intent of the code then that is what we need to approve. The best thing you can do is come with alternatives.

Mr. Kirby asked how tall the horse fence.

Ms. Langdale stated that it is 3-rail horse fence.

Mr. Kirby stated that it probably won't meet the code.

Ms. Brisk stated that it is quasi-public.

Ms. Langdale stated that we have a stream between us and the golf course.

Ms. Brisk asked how wide the stream is.

Ms. Langdale stated that it varies but around five feet.

Mr. Kirby stated that if the fence has a moat or grade it may be helpful.

Ms. Joly stated that is why in the staff report we focused on the west side of the lot.

Mr. Kirby stated that he is not comfortable without a complete barrier. He asked law director if they can show evidence that they have the existing condition approved by the city do they need a variance or do we owe one.

Mr. Banchefsky stated that if the permit was issued in error then the city doesn't need to honor.

Ms. Brisk asked if we know for sure that they didn't receive a variance.

Ms. Joly stated that they did not receive a variance.

Mr. Kirby stated equivivant safety, fence, and lots of room for creativity.

Mr. Kirby asked how long they need.

Mr. Langdale stated three months to allow time to find an architect.

Mr. Wallace stated that if the pool cover has been installed for ten years can you provide information on the maintenance of the pool cover.

Mr. Kirby moved to table V-55-2016 until November regular meeting, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

**FDP-60-2016 Final Development Plan**

**Final Development Plan for a Home2 Suites by Hilton on 2.5 +/- acres for development of a four story 58,260 square foot hotel along Forest Drive within the Canini Trust Corp subarea 8a (PID: 222-004860).**

**Applicant: J. Carter Bean Architect, LLC**

**V-61-2016 Variances**

**Variances to the Canini Trust Corp PUD text to the required minimum parking lot landscaping area, maximum height of the structure, sign location, and to allow uplighting; and to the New Albany Design Guidelines and Requirements to allow the structure not have operable and active front doors along all public and private roads for the J. Home2 Suites by Hilton along Forest Drive within the Canini Trust Corp subarea 8a (PID: 222-004860).**

**Applicant: J. Carter Bean Architect, LLC**

Mr. Stephen Mayer presented the staff report.

Mr. Ferris stated that he has no engineering comments.

Mr. Kirby asked how tall Discover Card is.

Ms. Joly stated that she is not sure.

Mr. Kirby stated that we have always used that building for fire.

Mr. Mayer stated that AEP received a height variance and they received a letter from the fire department.

Mr. Kirby asked if we received a letter for the previous two hotels in this area.

Mr. Mayer stated that he is not sure but he knows the applicant has met with the fire department and may be able to provide more information.

Mr. Carter Bean, architect, stated that they have a letter from the fire department regarding circulation, hydrant placement and access of the site.

Mr. Kirby asked if that could be a condition of approval.

Mr. Bean stated that the height of the overall building is 46.7' and is less than what was approved for the other hotel. The 50' height is only for the tower corner. The Hilton has denied the elevations that were presented to you tonight. I didn't know if we can get site plan approval so we can move forward with civil engineering or if we just need to table the application.

Mr. Kirby stated that the FDP would be messy with a lot of conditions. It is best to table the application.

Mr. Bean asked if we could run through any comments.

Mr. Spalding asked what Hilton's objections are.

Mr. Bean stated that it doesn't look like the prototype in composition and finish. The overall massing of the building is the same. I feel like the site plan is pretty good and we did not receive any objection in the site.

Mr. Wallace asked the reaction to the disapproval of the stone base.

Mr. Bean stated that I think the stone base is the correct scale for a four story building. To reduce the water table down to just three and a half feet is just out of scale. We lowered it on the 1 story element for scale.

Mr. Spalding asked if it was a cost.

Mr. Bean stated that the stone is about the same cost as the brick.

Mr. Spalding stated that you believe that it is more balanced architecturally.

Mr. Kirby asked if you are in conflict with any of the staff conditions.

Mr. Bean stated no.

Mr. Steele asked if the tower element is a structural element.

Mr. Bean stated that it is a staircase and that tower element is a prototypical element for this hotel.

Mr. Wallace asked if the stone portion will change.

Mr. Bean stated yes.

Mr. Kirby asked if we have any leeway in the lot coverage / vegetation variance request.

Mr. Bean stated that if we go to 8 landscaping than we would need a variance for parking. We were trying to determine the lesser of two issues. In this area there has been much discussion about parking.

Mr. Kirby asked if they have a cross access easement.

Mr. Bean stated no.

Ms. Joly stated that to the north is the New Albany Ballet, south and southwest lots are vacant.

Mr. Kirby stated that the Ballet people would need to walk further because of the detention pond location.

Mr. Bean stated that there are not any sidewalks on this side of Woodcrest.

Ms. Joly stated that a pedestrian plan was approved that did not include sidewalks on both sides of the street.

Mr. Mayer stated that Planning Commission approved the final development plan for the private road extension was approved with sidewalks only on one side. This site is proposing to install sidewalks as shown on the map.

Mr. Bean stated that a leisure trail will be installed that will provide connection around our property.

Mr. Wallace stated that we discussed people walking from the hotels to the gas station and Dairy Queen.

Mr. Bean stated that everything connects but you need to cross the street.

Ms. Joly stated that it was a function of the number of streets and desire to have different access points but not enough room to fit everything.

Mr. Kirby asked if we need cross access easement for future.

Ms. Joly stated that don't think we have enough information.

Mr. Kirby asked if it is common practice to have signage that states parking for this business only.

Mr. Mayer stated that Dairy Queen employees are parking off-site. The property owners are working with each other.

Ms. Joly stated that Dairy Queen drive thru is not working and may be coming back to this board.

Mr. Bean stated that we have a general comfort level to the site layout. The submission deadline for the next meeting is this Friday. Can we submit information to you about two weeks out for staff review?

Ms. Joly stated that we will work with you on that date.

Mr. Wallace moved to table FDP-60-2016 to the next regular scheduled meeting in September, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby moved to table V-61-2016 to the next regular scheduled meeting in September, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Ms. Brisk, yea; Mr. Wallace, yea; Mr. Steele, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Ms. Joly stated that we will need an informal meeting on Wednesday, September 7th and we currently have 10 applications for the regular September meeting.

Mr. Kirby asked what type of applications are on the agenda in September.

Mr. Mayer stated that we have nine applications from New Albany Company, five rezoning and four conditional uses for the same properties. The last application is a final development plan amendment for a Montessori preschool.

Ms. Joly stated that the zoning officer had the last contact with the Lambton Park pool on August 1<sup>st</sup>. There was some agreement from the contractor that

the owner said he was going to install the fence and they were trying to work out some details.

Ms. Hickok stated that the details were related to the gate across the driveway.

Ms. Joly stated that the zoning officer has follow up with him and has not received a response from him at this time. I think we are nearing the end of the outreach. Without some progress we will advance that to enforcement. The zoning officer researched the mounding / landscaping issue that was brought up at the last meeting. He presented the same landscape plan that showed the mounding along the golf course at every meeting. At the first meeting, Mr. Roberto stated that he did not want to install the mounding along the golf course but he continued to present the materials. I think because of the timing and no one was on the golf course. The mounding was not included as a condition of approval.

Mr. Wallace confirmed the upcoming meeting dates.

Ms. Joly confirmed informational workshop on Wednesday 9/7/16 and the regular meeting on 9/19/16.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 9:15 p.m.



Submitted by Pam Hickok

## APPENDIX



### Planning Commission Staff Report August 15, 2016 Meeting

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#### PULTE HOMES – MODEL HOME CONDITIONAL USE

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LOCATION: 7405 Steeplechase Lane (222-004808)  
APPLICANT: Pulte Home of Ohio, LLC  
REQUEST: Conditional Use for a Residential Model Home  
ZONING: I-PUD (Infill Planned Unit Development –  
Millbrook Farm at Sugar Run PUD text)  
STRATEGIC PLAN: Town Residential District  
APPLICATION: CU-62-2016

Review based on: Application materials received May 6, 2014 and June 17, 2016.

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#### **I. REQUEST & BACKGROUND**

The applicant is seeking conditional use approval for a residential model home to be located at 7405 Steeplechase Lane (Lot 20) within the Millbrook Farm at Sugar Run subdivision. The home will serve a model home for Pulte Home of Ohio, LLC for the entire 30 lot subdivision. The requested duration of this conditional use is two (2) years.

This area is zoned I-PUD and the residential uses are coincident with those in our code, making this requested use a conditional use in the district.

#### **II. LOCATION**

The model home is located at the entrance of the subdivision at the northwest corner of Millbrook Farm Drive and Steeplechase Lane. The subdivision is located north of Camden Drive (within the Dominion Club of the New Albany Links subdivision), west of Bevelhymer Road, and east of the Upper Clarenton subdivision. The subdivision is adjacent to and located on the north and south side of Sugar Run. Existing surrounding land uses includes residential.

### III. EVALUATION

#### General Standards for Conditional Uses (C.O. 1115.03)

The Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location shall meet all of the following requirements:

- (a) *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance.*
- (b) *The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
- (c) *The use will not be hazardous to existing or future neighboring uses.*
- (d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, 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.*
- (e) *The proposed use will not be detrimental to the economic welfare of the community.*
- (f) *The proposed use 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, glare or odors.*
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*

Residential model homes. Per Code, these are newly constructed homes or temporary structures placed in a newly constructed subdivision and used by a homebuilder or developer to display home styles and lot availability in a subdivision to promote the sale of new housing units. The model home may be staffed and furnished. (C.O. 1165.11)

The criteria and the applicability of this application are detailed below (Section 1165.11(a)):

1. *Appropriate location within the community.*  
The proposed model home will be located on Lot 20 at the northwest corner of Millbrook Farm Drive and Steeplechase Lane. The proposed location appears to be appropriate and easily accessible not only by roads, but also by sidewalks and nearby trails. The location of this model home is on the subdivision's primary road.
2. *It is integrated in the existing community with customary exterior residential lighting.*  
The home will utilize house light fixtures consistent with the style and architectural features with future homes planned in accordance with city code.
3. *The use is approved with limited duration.*  
The applicant has stated that they would like to utilize the conditional use for two (2) years. The proposed duration is consistent with other model homes the community.
4. *One sign is permitted.*  
Applicant proposes one ground and one flag sign (see details below).
5. *Shall not be used as a general real estate brokerage office.*

The applicant has stated that the model home will not be used as a general real estate brokerage office.

The Planning Commission is also to consider the following (1165.11 (b)):

1. *Hours of operation*

The applicant has indicated that the model home will operate Monday – Saturday, from 11:00am to 6:00pm and 12:00pm (noon) to 5:00pm on Sunday. These operating hours are generally consistent with the operating hours of other approved model homes.

2. *Number of employees and maximum number of employees at the site at one time.*

The applicant has stated that there will be one permanent salesperson staffing the house during its hours of operation.

3. *Provisions for parking for employees and customers*

The applicant has indicated that parking for employee and customers will be made available only on the street. The garage will be converted and used as an office and welcome center. The driveway will not be installed and a sidewalk from the street to the office center will be installed.

4. *Size, lighting, content and location of signage*

C.O. Section 1169.10(e) of the sign code permits one (1) sign not to exceed two feet by three feet in dimension or six square feet in area. No sign shall extend more than four feet above grade. Signage shall not be illuminated nor shall it be nearer than ten feet to any street right-of-way. The applicant is proposing the following sign:

1. Dual-post ground sign to read “The Pulte Home Gallery at Millbrook at Sugar Run.”

a. Size: 1.5’ x 3” (5 square feet) [meets code].

b. Height: 36” feet [meets code].

c. Location: The proposed sign is located at the front of the property, perpendicular to New Albany Links Drive, and is approximately 4.5 feet from the street right of way [does not meet code]. Staff recommends a condition of approval the sign is setback to a minimum of 10 feet from the right-of-way.

d. The landscape plan indicates this sign will be illuminated during the hours of operation only. Staff recommends a condition of approval requiring the sign is not illuminated per code requirements.

2. The landscape plan shows a flag pole located in the front yard adjacent to the model home sign.

a. The applicant proposes to install a 25 foot high brush aluminum / satin finish flag pole.

b. No information on what type of flag itself will be flown on the pole. Flags in the front yard are not typical of model homes and the Planning Commission should evaluate the appropriateness of the flag. Per C.O. 1165.11(a) the Planning Commission should consider if the site is being identified by more than one sign. Code allows a maximum of one sign.

c. Per the city sign code section 1169.09:

(a) *Flags*. The flag or insignia of any nation, state, city or other political subdivision. Poles for such flags must be no more than thirty-five feet in height as measured from established grade line to the top of the pole. The maximum size of such flags must be determined according to the following table:

POLE HEIGHT	MAXIMUM FLAG SIZE
35'	5' by 9'6"
30'	5' by 8'
25'	4' by 6'
20'	3' by 5'

(b) *Corporate Flags*. Corporate Flags are exempt from this sign code subject to the following conditions:

- (1) No more than one corporate flag may be flown per parcel of land;
- (2) A corporate flag shall not be larger than three feet in height and five feet in length;
- (3) The maximum height for a corporate flag on a separate pole shall be 20 feet as measured from established grade line to top of the pole;
- (4) Corporate flags may display only the name, corporation emblem and/or logo of a given corporation. Slogans and tag lines are not permitted.

5. *Landscaping and screening*

The proposed landscaping appears to be consistent with neighboring residences and appropriate for the location.

#### IV. RECOMMENDATION

The overall proposal is generally consistent with the code requirements for model home conditional uses. The operational aspects of the proposed model home are consistent with successfully operating model homes in other New Albany neighborhoods. Although there is no off-street parking being provided, since the model home is located on a corner there is more on-street parking available than non-corner lots. And, since one permanent salesperson will be staffing the model home, it appears the majority of the street will be available for visitors. The Planning Commission should evaluate the flag pole. Historically the Planning Commission has only allowed one model home sign that meets code requirements and no others. Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval.

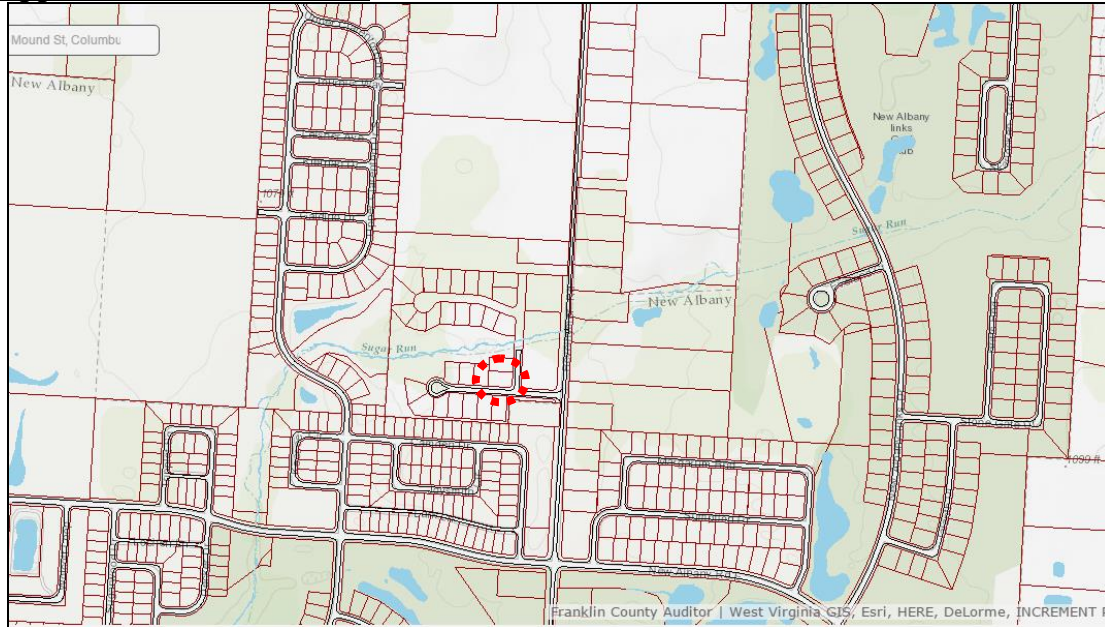
#### V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

**Move to approve application CU-62-2016 based on the findings in the staff report with the following conditions, subject to staff approval:**

- 1) The Conditional Use Permit will become effective at the time the Certificate of Occupancy is granted.
- 2) The Conditional Use Permit is permitted for two (2) years and that any extension in time is subject to review and approval by the Planning Commission.
- 3) The model home sign is not illuminated per code requirements
- 4) The signs associated with this application is removed at the time that the permit expires.

**Approximate Site Location:**



Source: Franklin County Auditor



**Planning Commission Staff Report  
August 15, 2016 Meeting**

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**10 HIGHGROVE  
POOL FENCE VARIANCE**

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**LOCATION:** 10 Highgrove (PID: 222-004492)  
**APPLICANT:** John A. Gleason  
**REQUEST:** Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool  
**STRATEGIC PLAN:** Neighborhood Residential District  
**ZONING:** C-PUD (West Nine 2 PUD Subarea C)  
**APPLICATION:** V-51-2016

Review based on: Application materials received June 15, 2016.

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*Staff report prepared by Stephen Mayer, Community Development Planner.*

**I. REQUEST AND BACKGROUND**

The Planning Commission reviewed and tabled this application on July 18, 2016. The applicant requested the application be tabled so they could discuss landscaping changes with the homeowner's association. Although new documents were not submitted in time to be included in this staff report, the applicant has kept in communication with staff regarding progress on a landscape plan. The applicant has indicated to staff they are researching pool netting in-lieu of a pool cover.

The applicant requests a variance from C.O. Section 1173.02(e) Private Swimming Pools relating to the requirement that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.

The city law director has previously advised that the Planning Commission must evaluate this application exclusively based upon the provisions and criteria generally set forth in the City Zoning Code as relates to variances (Chapter 1113), and the specific

provisions contained within Section 1173.02(e) regarding private swimming pool fences.

The applicant submitted and received a permit to install the pool in 2014 (REM20141240).

Per the PUD zoning text variances shall be heard by the Planning Commission.

## **II. SITE DESCRIPTION & USE**

The site is 1.21 acres with a single family home. The lot is within the New Albany Country Club. The property is located at the end of the Highgrove, an elliptical one-way boulevard-type street. There are currently six homes under construction or built. The neighboring properties consist of the golf course to the north and east, and single-family homes constructed to the south and west.

## **III. ASSESSMENT**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

### ***Criteria***

The standards for granting of a variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a 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 adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*

9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

#### **IV. FACTS**

##### ***Considerations and Basis for Decision***

**The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Planning Commission's decision for the requested variance:**

- This pool's fence was brought to the attention of staff during the variance hearing of another pool fence variance application at 6958 Lambton Park Road.
- The applicant submitted and received a permit to install the pool in 2014 (REM20141240). The pool permit showed a five foot tall aluminum fence immediately surrounding the pool's paved area.
- The pool is located at the rear of the home, between the house and the New Albany Country Club golf course.
- The lot is 1.21 acres in size.
- At the July 18, 2016 meeting, the Planning Commission requested information on the location, ownership, and maintenance obligations of the of the horse fence. Based on staff's GIS data the horse fence crisscrosses the golf course property line a couple times. The horse fence does not appear to match the homeowner's general property boundaries. The black aluminum fence appears to be located on both the homeowner's and golf course properties.
- The applicant states they are requesting a variance to allow a fence that effectively prevents a child from crawling or otherwise passing through or under such fence to be between 35 and 42 inches in height. The fencing between 35 and 42 inches in height is a horse fence.
- Codified Ordinance Section 1173.02(e) requires that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.
- The city's pool and fence code does not prescribe any particular style or type of fence other than saying such design and construction as to effectively prevent a



child from crawling or otherwise passing through or under such fence or barrier.

- The applicant's materials assert that the horse fence meets the intent of the zoning code of preventing a child from crawling or passing through or under such fence because of the landscaping that is installed on the house side of the horse fence.
- The property currently has five foot tall aluminum fencing running from the house, down the sides of the property, and terminates at the horse fencing at the rear property line. The entire rear property line has a 3-rail horse fence that is approximately 32" at its lowest height.
- The rear property line contains six to seven foot tall arborvitae running the entire length of the rear property line between the aluminum fencing.
- The pool is approximately 80 feet from Highgrove, 190 feet from the western property line, and 140 feet from the eastern property line, and 33 feet from the rear property line bordering the golf course.
- The applicant states the variance is being sought so that the property owner does not have to have a fence within a fence, which would detract from the aesthetics both looking out toward the country club and from the country club.

## **V. HISTORY**

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5 acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason the BZA approved the variance while stating some homes may be too close to each other for a pool cover.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has private streets creates special conditions and circumstances which are peculiar to the land.
- The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have

limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval are:

- An automatic safety pool cover is installed that is ASTM compliant as and if amended.
- The pool area is fully enclosed by a house, fence, or wall.
- The existing 54" and 44" horse fence counts towards the enclosure of the pool.
- The new fence installed must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18<sup>th</sup>.
- The pool cover is certified annually by the homeowner.

## **VI.EVALUATION**

Through several pool barrier variance applications city staff, the Board of Zoning Appeals and Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are proximity of the property to other residences, public accessibility to the property and the effectiveness of a pool cover in providing safety.

The variances within the New Albany Farms subdivision were approved because the BZA stated the gated community with private streets, the large size of the properties and proximity to other parcels create special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. Both applications included the installation of a power safety cover.

The latest application on Lambton Park shared some, but not all, of the property characteristics with the previously approved variances. Due to the property's location along public streets, the Planning Commission paid special attention to characteristics of the property that have the effect of limiting public access. Additional information related to the technical standards and operational concerns of pool covers was also presented. The variance was approved by a 3-1 vote with several conditions of approval. Some of the factors that were discussed with the motion included:

- The property appears to have limited access due to the private golf course and lack of a rear neighbor,
- Substantial mounding, landscaping, horse fence and the property's size impede public access, and
- The applicant proposed an ASTM compliant pool cover which the homeowner agreed to certify annually.

This property appears to have limited access due to the private golf course similar to the Lambton Park property. While the Lambton Park property only had one neighbor because it is a corner lot, this property has neighbors on each side. It is located on the

end of a looped, public street with a limited number of homes. Due to this configuration, it is unlikely to receive a substantial amount of outside or through traffic.

The property is wide and narrow, resulting in the pool being approximately 33 feet from the rear (golf course) property line. The property is not notably or significantly larger than most homes in the country club. The applicant does not propose to install a pool cover, which has been a requirement of every application approved that allows a variance from the zoning code's standard.

The subject property contains a horse fence that separates it from the golf course as the Lambton Park property did. While the property does have landscaping, it does not appear to be substantial enough to prevent unattended access. It also includes 5-foot ornamental fencing that is code compliant along the side property lines that effectively prevent access from the neighbors onto the property.

## **VII. RECOMMENDATION**

The purpose of a variance hearing is to evaluate specific factors related to an applicant's request. This allows for the consideration of the complex issues that are inherent in every variance application. Although the property is comparable to recently approved applications, as submitted staff cannot support the request as it does not appear to meet the same set of criteria as other similar applications which have been approved. The existing 5-foot code compliant fencing along the side property lines, the location along a private golf course and the limited number of homes on the looped street somewhat satisfy the proximity and access factors that have been important in other past variances. However, the golf course property line does not contain the amount of mounding or landscaping that would prevent access. It appears that mounding could be installed along a portion of the rear property line. A combination of mounding and supplemental landscaping could be an effective method to prevent access if it is uninterrupted and continuous behind the horse fence. The absence of a pool cover is a notable distinction from other similar approved variances and has been seen as an important factor to ensure safety. If additional measures, such as landscaping and a pool cover, were included in the request, the application would be more closely aligned with other similar applications.

## **VIII. ACTION**

**Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:**

Move to approve variance application V-51-2016 based on the findings in the staff report with the following condition(s) of approval:

1. An automatic safety pool cover is installed that is ASTM compliant as and if amended.
2. The pool area is fully enclosed by a house, fence or wall.
3. Continuous and uninterrupted mounding and/or landscaping is installed along the golf course property line that will prevent access.
4. The pool cover is certified annually by the homeowner.

5. The existing horse fence counts towards the enclosure of the pool.

**Approximate Site Location:**



Source: Google Maps



**Planning Commission Staff Report  
August 15, 2016 Meeting**

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**11 HIGHGROVE  
POOL FENCE VARIANCE**

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**LOCATION:** 11 Highgrove (PID: 222-004493)  
**APPLICANT:** John A. Gleason  
**REQUEST:** Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool  
**STRATEGIC PLAN:** Neighborhood Residential District  
**ZONING:** C-PUD (West Nine 2 PUD Subarea C)  
**APPLICATION:** V-52-2016

Review based on: Application materials received June 15, 2016.

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*Staff report prepared by Stephen Mayer, Community Development Planner.*

**IV. REQUEST AND BACKGROUND**

The Planning Commission reviewed and tabled this application on July 18, 2016. The applicant requested the application be tabled so they could discuss landscaping changes with the homeowner's association. Although new documents were not submitted in time to be included in this staff report, the applicant has kept in communication with staff regarding progress on a landscape plan. The applicant has indicated to staff they are researching pool netting in-lieu of a pool cover.

The applicant requests a variance from C.O. Section 1173.02(e) Private Swimming Pools relating to the requirement that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.

The city law director has previously advised that the Planning Commission must evaluate this application exclusively based upon the provisions and criteria generally set forth in the City Zoning Code as relates to variances (Chapter 1113), and the specific provisions contained within Section 1173.02(e) regarding private swimming pool fences.

The applicant submitted and received a permit to install the pool in 2014 (REM20141240).

Per the PUD zoning text variances shall be heard by the Planning Commission.

#### **V. SITE DESCRIPTION & USE**

The site is 1.17 acres with a single family home. The lot is within the New Albany Country Club. The property is located at the end of the Highgrove, an elliptical one-way boulevard-type street. There are currently six homes under construction or built. The neighboring properties consist of the golf course to the south and east, and single-family homes constructed to the north and west.

#### **VI. ASSESSMENT**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

##### ***Criteria***

The standards for granting of a variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

- 13. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
- 14. Whether the variance is substantial.*
- 15. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
- 16. Whether the variance would adversely affect the delivery of government services.*
- 17. Whether the property owner purchased the property with knowledge of the zoning restriction.*
- 18. Whether the problem can be solved by some manner other than the granting of a variance.*
- 19. Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

- 20. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*

21. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
22. *That the special conditions and circumstances do not result from the action of the applicant.*
23. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
24. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

#### **IV. FACTS**

##### ***Considerations and Basis for Decision***

**The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Planning Commission's decision for the requested variance:**

- This pool's fence was brought to the attention of staff during the variance hearing of another pool fence variance application at 6958 Lambton Park Road.
- The applicant submitted and received a permit to install the pool in 2013 (REM20130900). The pool permit showed a five foot tall aluminum fence immediately surrounding the pool's paved area.
- The pool is located at the rear of the home, between the house and the New Albany Country Club golf course.
- The lot is 1.17 acres in size.
- At the July 18, 2016 meeting, the Planning Commission requested information on the location, ownership, and maintenance obligations of the of the horse fence. Based on staff's GIS data the horse fence is entirely located on golf course property. The horse fence does not appear to match the homeowner's general property boundaries. The black aluminum fence appears to be located on both the homeowner's and golf course properties.
- Staff's GIS data shows the pool was not built in the location as shown on the approved permit. The pool is approximately 22 feet and paved area is approximately 8 feet from the side property line. The pool's paved area appears to be partially built on the golf course's property while the pool itself is approximately 12 feet from the rear property line.
- The applicant states they are requesting a variance to allow a fence that effectively prevents a child from crawling or otherwise passing through or under such fence to be between 35 and 42 inches in height. The fencing between 35 and 42 inches in height is a horse fence.
- Codified Ordinance Section 1173.02(e) requires that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such

- wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.
- The city's pool and fence code does not prescribe any particular style or type of fence other than saying such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier.
  - The applicant's materials assert that the horse fence meets the intent of the zoning code of preventing a child from crawling or passing through or under such fence because a fourth bottom rail has been added to the bottom of the fence.
  - The property currently has five foot tall aluminum fencing running from the house, down the sides of the property, and terminates at the horse fencing at the rear property line. The entire rear property line has a 3-rail horse fence that is 32" at its lowest height.
  - There is no mounding or landscaping installed along the rear property line where golf course is located.
  - The pool is approximately 132 feet from Highgrove, 22 feet from the northern property line, and 38 feet from the horse fence bordering the golf course to the east.
  - The applicant states the variance is being sought so that the property owner does not have to have a fence within a fence, which would detract from the aesthetics both looking out toward the country club and from the country club.

## **V. HISTORY**

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5 acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason the BZA approved the variance while stating some homes may be too close to each other for a pool cover.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has



private streets creates special conditions and circumstances which are peculiar to the land.

- The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval are:
  - An automatic safety pool cover is installed that is ASTM compliant as and if amended.
  - The pool area is fully enclosed by a house, fence, or wall.
  - The existing 54" and 44" horse fence counts towards the enclosure of the pool.
  - The new fence installed must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18<sup>th</sup>.
  - The pool cover is certified annually by the homeowner.

## **VI.EVALUATION**

Through several pool barrier variance applications city staff, the Board of Zoning Appeals and Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are proximity of the property to other residences, public accessibility to the property and the effectiveness of a pool cover in providing safety.

The variances within the New Albany Farms subdivision were approved because the BZA stated the gated community with private streets, the large size of the properties and proximity to other parcels create special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. Both applications included the installation of a power safety cover.

The latest application on Lambton Park shared some, but not all, of the property characteristics with the previously approved variances. Due to the property's location along public streets, the Planning Commission paid special attention to characteristics of the property that have the effect of limiting public access. Additional information related to the technical standards and operational concerns of pool covers was also presented. The variance was approved by a 3-1 vote with several conditions of approval. Some of the factors that were discussed with the motion included:

- The property appears to have limited access due to the private golf course and lack of a rear neighbor,
- Substantial mounding, landscaping, horse fence and the property's size impede public access, and

- The applicant proposed an ASTM compliant pool cover which the homeowner agreed to certify annually.

This property appears to have limited access due to the private golf course similar to the Lambton Park property. While the Lambton Park property only had one neighbor because it is a corner lot, this property has neighbors on each side. It is located on the end of a looped, public street with a limited number of homes. Due to this configuration, it is unlikely to receive a substantial amount of outside or through traffic.

The pool is approximately 38 feet from the rear (golf course) property line. The property is not notably or significantly larger than most homes in the country club. The applicant does not propose to install a pool cover, which has been a requirement of every application approved that allows a variance from the zoning code's standard.

The subject property contains a horse fence that separates it from the golf course as the Lambton Park property did. The property does not have landscaping or mounding to prevent unattended access. It also includes 5-foot ornamental fencing that is code compliant along the side property lines that effectively prevent access from the neighbors onto the property.

#### **VIII. RECOMMENDATION**

The purpose of a variance hearing is to evaluate specific factors related to an applicant's request. This allows for the consideration of the complex issues that are inherent in every variance application. Although the property is comparable to recently approved applications, as submitted staff cannot support the request as it does not appear to meet the same set of criteria as other similar applications which have been approved. The existing 5-foot code compliant fencing along the side property lines, the location along a private golf course and the limited number of homes on the looped street somewhat satisfy the proximity and access factors that have been important in other past variances. However, the golf course property line does not contain any mounding or landscaping that would prevent access. It appears that mounding could be installed along a portion of the rear property line. A combination of mounding and landscaping could be an effective method to prevent access if it is uninterrupted and continuous behind the horse fence. The absence of a pool cover is a notable distinction from other similar approved variances and has been seen as an important factor to ensure safety. If additional measures, such as landscaping and a pool cover, were included in the request, the application would be more closely aligned with other similar applications.

#### **VIII. ACTION**

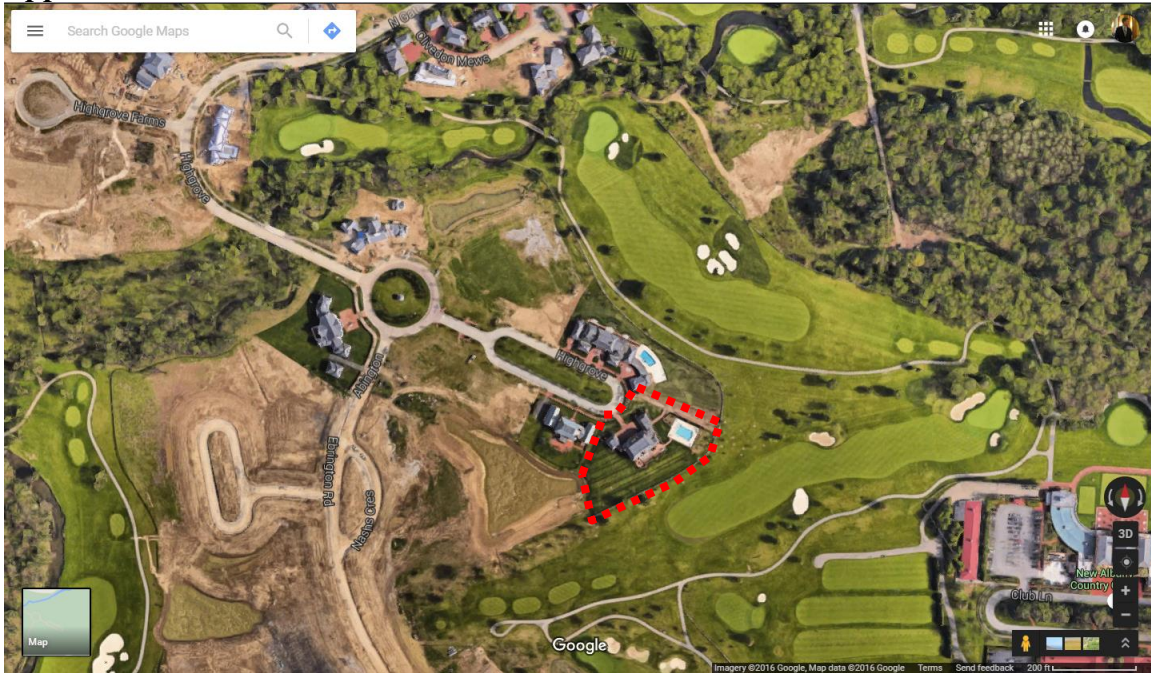
**Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:**

Move to approve variance application V-52-2016 based on the findings in the staff report with the following condition(s) of approval:

6. An automatic safety pool cover is installed that is ASTM compliant as and if amended.

7. The pool area is fully enclosed by a house, fence or wall.
8. Continuous and uninterrupted mounding and/or landscaping is installed along the golf course property line that will prevent access.
9. The pool cover is certified annually by the homeowner.
10. The existing horse fence counts towards the enclosure of the pool.

**Approximate Site Location:**



Source: Google Maps



**Planning Commission Staff Report  
August 15, 2016 Meeting**

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**7010 LAMBTON PARK  
POOL FENCE VARIANCE**

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**LOCATION:** 7010 Lambton Park (PID: 222-002598)  
**APPLICANT:** Rich & Paige Langdale  
**REQUEST:** Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool  
**STRATEGIC PLAN:** Rural Estate Residential District  
**ZONING:** C-PUD (1998 NACO C-PUD, Subarea 1b: Edgemont)  
**APPLICATION:** V-55-2016

Review based on: Application materials received June 22, 2016.

*Staff report prepared by Stephen Mayer, Community Development Planner.*

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**VII. REQUEST AND BACKGROUND**

The Planning Commission tabled this application on July 18, 2016 because the applicant was not present at the meeting.

The applicant requests a variance from C.O. Section 1173.02(e) Private Swimming Pools relating to the requirement that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.

The city law director has previously advised that the Planning Commission must evaluate this application exclusively based upon the provisions and criteria generally set forth in the City Zoning Code as relates to variances (Chapter 1113), and the specific provisions contained within Section 1173.02(e) regarding private swimming pool fences.

Per the PUD zoning text variances shall be heard by the Planning Commission.

## VIII. SITE DESCRIPTION & USE

The site is 7.414 acres with a single family home. The lot is within the New Albany Country Club. The property is located near the northeast corner of Waterston and Lambton Park Road. The house is one of three large lots along the north side of Lambton Park Road. The neighboring properties consist of the golf course to the north and east, and single-family homes constructed to the south and west.

## IX. ASSESSMENT

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

### *Criteria*

The standards for granting of a variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

25. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
26. *Whether the variance is substantial.*
27. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
28. *Whether the variance would adversely affect the delivery of government services.*
29. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
30. *Whether the problem can be solved by some manner other than the granting of a variance.*
31. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

32. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
33. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
34. *That the special conditions and circumstances do not result from the action of the applicant.*

35. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
36. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

#### **IV. FACTS**

##### ***Considerations and Basis for Decision***

**The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Planning Commission's decision for the requested variance:**

- At the July 18, 2016 meeting, the Planning Commission requested information regarding if the pool has an automatic cover. Staff verbally confirmed with the applicant the pool has an automatic pool cover installed.
- This pool's fence was brought to the attention of staff during the variance hearing of another pool fence variance application at 6958 Lambton Park Road.
- The city's permit tracking software shows a pool permit was issued in 2006. However, due to the city's records retention policy the plans have since been destroyed.
- Codified Ordinance Section 1173.02(e) requires that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.
- The city's pool and fence code does not prescribe any particular style or type of fence other than saying such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier.
- The pool is located at the rear of the home, between the house and the New Albany Country Club golf course.
- The parcel has a 44" high 3-rail horse fence along the rear property line separating the house and golf course. There does not appear to be any other fencing around the property.
- The property to the west is currently vacant and contains several large tree masses.
- This parcel is one of the largest in the Country Club subdivision resulting in the pool being located greater distances from other residential properties and public roads. The pool is approximately 495 feet from Lambton Park Road, 85 feet from the western property line, and 61 feet from the eastern property line bordering the golf course.
- The applicant proposes to continue to use an automatic pool safety cover. No specifications on the pool cover have been submitted other than a picture

showing a person standing on the pool cover. This may be similar to a pool cover the BZA approved in-lieu of a fence at 6958 Lambton Park, and 10 and 14 New Albany Farms. Pool covers are recognized by some building codes as an appropriate method to secure a pool. However the city has not adopted a code that allows the use of covers. The city's private swimming pool ordinance regulates the construction of private pools within the city and requires a 4-foot fence affixed with an operable gate and lock.

- The lot is larger than the majority of the parcels in and around the New Albany Country Club subdivision. This lot is approximately 7.4 acres while the vast majority of the lot sizes in the Country Club subdivision are under one acre.
- The applicant's narrative states the pool was properly inspected and approved. Staff's records does not indicate such
- It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The pool appears to be screened from the public right-of-way, but does clear sight lines to the golf course. The pool has been constructed for approximately 10 years. There are some tree masses to the west but it is unclear how much of them are on the applicant's property.

## **V. HISTORY**

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5 acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason the BZA approved the variance while stating some homes may be too close to each other for a pool cover.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has private streets creates special conditions and circumstances which are peculiar to the land.
- The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have

limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval are:

- An automatic safety pool cover is installed that is ASTM compliant as and if amended.
- The pool area is fully enclosed by a house, fence, or wall.
- The existing 54" and 44" horse fence counts towards the enclosure of the pool.
- The new fence installed must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18<sup>th</sup>.
- The pool cover is certified annually by the homeowner.

## **VI.EVALUATION**

Through several pool barrier variance applications city staff, the Board of Zoning Appeals and Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are proximity of the property to other residences, public accessibility to the property and the effectiveness of a pool cover in providing safety.

The variances within the New Albany Farms subdivision were approved because the BZA stated the gated community with private streets, the large size of the properties and proximity to other parcels create special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. Both applications included the installation of a power safety cover.

The latest application on Lambton Park shared some, but not all, of the property characteristics with the previously approved variances. Due to the property's location along public streets, the Planning Commission paid special attention to characteristics of the property that have the effect of limiting public access. Additional information related to the technical standards and operational concerns of pool covers was also presented. The variance was approved by a 3-1 vote with several conditions of approval. Some of the factors that were discussed with the motion included:

- The property appears to have limited access due to the private golf course and lack of a rear neighbor,
- Substantial mounding, landscaping, horse fence and the property's size impede public access, and
- The applicant proposed an ASTM compliant pool cover which the homeowner agreed to certify annually.

Although this property is not located within the Farms community there are similarities between this property and the homes at 6 and 14 New Albany Farms, and the home at 6958 Lambton Park in terms of limited proximity and access. This lot is unique from



other homes in the New Albany Country Club due to size and number of neighbors. The parcel is one of the largest in the New Albany Country Club and is essentially triangle-shaped with golf course on two sides and an undeveloped lot on the third side. A creek also separates the parcel from the golf course on the east side. While there are clear sight lines from the pool to the golf course, the majority of the pool and home is screened with a substantial amount of large trees. The home and pool appear to be completely screened from Lambton Park Road. Staff believes these are factors related to this parcel that help to prevent uncontrolled access and therefore not adversely affect the public safety of those residing or working in the vicinity similar to 6958 Lambton Park. One difference from 6958 Lambton Park is that the pool at 6958 was located right in the middle of the property creating large setbacks on all four sides of the pool, however, this pool at 7010 is located closer to the golf course and contains less screening. Additionally, 6958 is required to install a fence that meets code requirements where there isn't existing horse fence (the side property lines). This property contains fencing only along the golf course.

### **IX. RECOMMENDATION**

The purpose of a variance hearing is to evaluate specific factors related to an applicant's request. Although the property is comparable to recently approved applications, staff cannot support the request as submitted. The location along a private golf course, size of the parcel and isolation of the property satisfy the proximity and access factors that have been important in other past variances. However, it doesn't contain all the elements that have been required of recently approved variances. The golf course property line does not contain an amount of mounding or landscaping to prevent access. It appears that mounding and/or landscaping could be installed along a portion of the rear property line to accomplish this. Also fencing to limit access from neighboring lots does not exist. Due to the unique configuration of the lot, a potential neighbor on only one side and the substantial woods on the property, it seems as fencing could only be installed on the west property line to secure access. The presence of a pool cover is an important factor to ensure safety. If additional measures, such as landscaping and a side property line fence, were included in the request, the application would be more closely aligned with other similar applications.

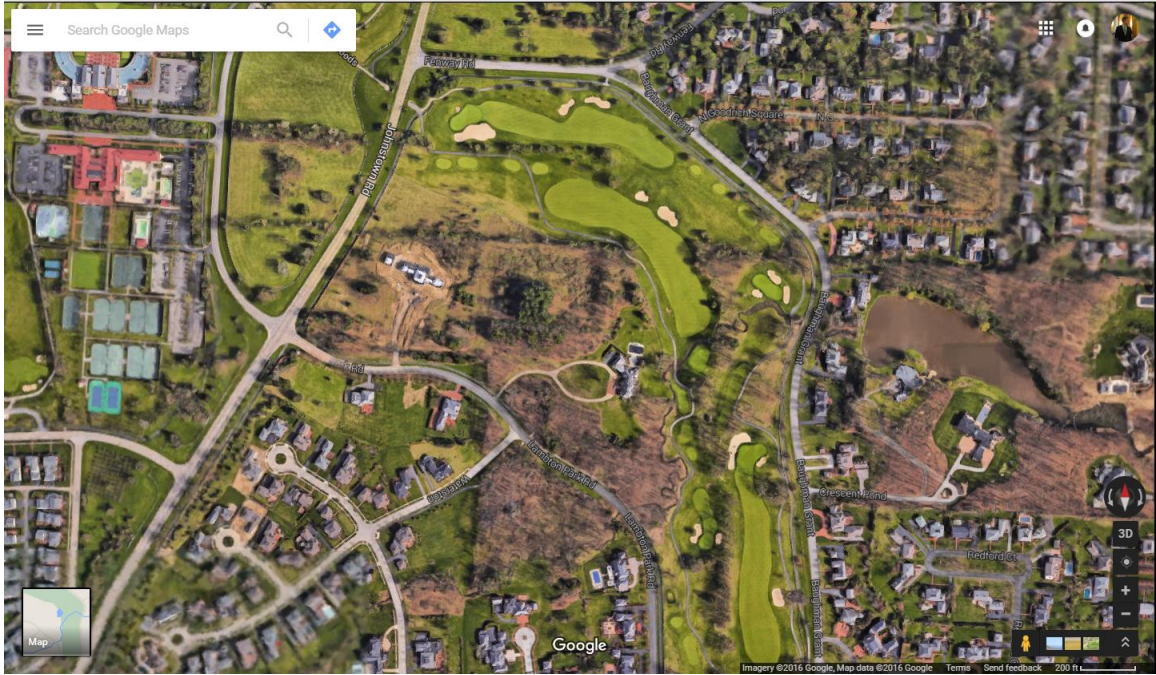
### **VIII. ACTION**

**Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:**

Move to approve variance application V-55-2016 based on the findings in the staff report with the following condition(s) of approval:

11. Continuous and uninterrupted mounding and/or landscaping are installed along the golf course property line that will prevent access.
12. Code compliant fencing is installed along the western side property line to tie into the horse fence.
13. The pool cover is certified annually by the homeowner.

## Approximate Site Location:





**Planning Commission Staff Report  
August 15, 2016 Meeting**

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**HOME2 SUITES BY HILTON  
FINAL DEVELOPMENT PLAN**

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LOCATION: West of Forest Drive generally northeast of the Smith's Mill Road  
(PID: 222-004860)  
APPLICANT: Bean Architects  
REQUEST: Final Development Plan  
ZONING: Infill Planned Unit Development (I-PUD) Canini Trust Corp  
subarea 8a  
STRATEGIC PLAN: Neighborhood Retail District  
APPLICATION: FDP-60-2016

Review based on: Application materials received July 15, 2016.

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*Staff Report completed by Stephen Mayer, Community Development Planner.*

**VI. REQUEST AND BACKGROUND**

The applicant requests review of a final development plan for a Home2 Suites by Hilton at the Canini Trust Corp Subarea 8a. This final development plan is for a four-story hotel containing 107 rooms totaling 58,260 square feet of floor space. The site is 2.49 acres and has 125 parking spaces. The hotel will include a kitchen, guest breakfast area, meeting and conference rooms, fitness facility, swimming pool, guest laundry and administrative offices.

The zoning text allows Office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, including gasoline service stations.

The applicant is also applying for several variances related to this final development plan under application V-61-2016. Information and evaluation of the variance requests are under a separate staff report.

**VII. SITE DESCRIPTION & USE**

The site is currently vacant and is located within the area known as the Canini Trust Corp subarea 8a. The site will encompass approximately 2.49 acres located south of the New Albany Ballet Company, west of Forest Drive, and generally east of Turkey Hill.

The Canini Trust Corp currently is home to the Dairy Queen, Turkey Hill, COTA park-n-ride facility, Hampton Inn and Suites, Marriott Hotel, and Tutor Time.

### III. EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

The Commission should consider, at a minimum, the following (per Section 1159.08):

- a. *That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*
- b. *That the proposed development is in general conformity with the Strategic Plan/Rocky Fork-Blacklick Accord or portion thereof as it may apply;*
- c. *That the proposed development advances the general welfare of the Municipality;*
- d. *That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- e. *Various types of land or building proposed in the project;*
- f. *Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density may not violate any contractual agreement contained in any utility contract then in effect;*
- g. *Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- h. *Building heights of all structures with regard to their visual impact on adjacent facilities;*
- i. *Front, side and rear yard definitions and uses where they occur at the development periphery;*
- j. *Gross commercial building area;*
- k. *Area ratios and designation of the land surfaces to which they apply;*
- l. *Spaces between buildings and open areas;*
- m. *Width of streets in the project;*
- n. *Setbacks from streets;*
- o. *Off-street parking and loading standards;*
- p. *The order in which development will likely proceed in complex, multi-use, multi-phase developments;*
- q. *The potential impact of the proposed plan on the student population of the local school district(s);*
- r. *The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- s. *The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).*

It is also important to evaluate the PUD portion based on the purpose and intent. Per Section 1159.02, PUD's are intended to:

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*

- d. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*
- e. *Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering public and private development costs;*
- f. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- g. *Encourage concentrated land use patterns which decrease the length of automobile travel, encourage public transportation, allow trip consolidation and encourage pedestrian circulation between land uses;*
- h. *Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;*
- i. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- j. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- k. *Provide an environment of stable character compatible with surrounding areas; and*
- l. *Provide for innovations in land development, especially for affordable housing and infill development.*

**A. New Albany Strategic Plan**

- 1. This site is located in the Neighborhood Retail district of the 2014 New Albany Strategic Plan. The development standards for this type of use include (but are not limited to):
  - 1. Retail users should have footprints no larger than 80,000 square feet, individual users should be no greater than 60,000 square feet.
  - 2. Landscaping should be high quality, enhance the site and contribute to the natural, pastoral setting of New Albany. Heavy, but appropriate landscaping is necessary to buffer these uses from any adjacent residential uses.
  - 3. Parking should be located to the rear of the building.
  - 4. Sidewalks or leisure trails should be included along primary roadways as well as internal to the developments.
  - 5. Structures must use high quality building materials and incorporate detailed, four sided architecture.

**B. Use, Site and Layout**

- 1. The final development plan site is approximately 2.49 acres and will contain a single building with 58,260 square feet of space. The building is surrounded by a 125 space parking lot. Access to the site will be from an unnamed private drive. Access is also provided from Forest Drive via a shared curb cut.
- 2. The building's primary façade faces north to an unnamed private drive.
- 3. The total lot coverage, which includes all areas of pavement and building coverage, shall not exceed 80% of the total lot area per subarea 8a.01(7). The plans show 78.1% lot coverage for the site.
- 4. The zoning text requires the following setbacks:

<b>Requirement</b>	<b>Proposed</b>
0 foot for pavement and buildings for adjoining side properties (south)	5 foot pavement 37.5 +/- foot building
20 foot building & pavement setback from Woodcrest Way (west)	20 foot pavement 67 +/- foot building
30 foot building & 20 foot pavement setback from Forest Drive	20 foot pavement 91 +/- foot building
20 foot building & pavement setback from northern private road	23 foot pavement 45 +/- foot building (drop-off zone)

### **C. Access, Loading, Parking**

#### *Parking*

1. The hotel use proposed for the site requires 122 parking spaces per Codified Ordinance 1167.05(d)(13). There are 125 spaces proposed as part of this application.
2. Zoning text section 8c.02(3) requires bicycle racks be provided within the subarea. Bike racks are installed at other locations within the subarea.

#### *Circulation*

1. The site will be accessed from three entrance drives. Two curb cuts are located to the north, next to the main entrance and drop-off zone along an unnamed private drive. The second is a new curb cut off of Forest Drive. This Forest Drive curb cut will be shared between this site and future development to the south. Staff recommends a condition of approval requiring cross access easements for the shared drive are recorded and submitted to staff.
2. The site allows for vehicular traffic to enter/exit the site at Forest Drive and the unnamed private drive while allowing drop-off or pick up at the main entrance or at any of the parking stalls.
3. There is a designated drop-off and pick up lane in front of the building. The site anticipates the majority of traffic to come from Johnstown Road and Forest Drive. This drop-off land is separated by a median paver.
4. In 2006 the Planning Commission (ZC/PDP-06-2006) and City Council (O-06-2006) approved a circulation plan for the Canini Trust Corp that included a leisure trail to be located only on the outside of Forest Drive. A leisure trail will be located along the eastern side of Forest Drive. While the installation of sidewalk or leisure trail is not required along Forest Drive, the applicant is installing a four foot wide sidewalk in order to create an internal loop path.
5. Per the approved Woodcrest Way FDP plan (FDP-69-2014) a five foot wide sidewalk with a five foot wide grass strip (tree lawn) is required to be installed along Woodcrest Way and the unnamed internal east/west private drive. The site plan proposes to install these items.

#### *Loading and service areas*

1. Codified Ordinance Chapter 1167.06(b)(2) requires one loading spaces for hotels between 50,001 to 100,000 square feet. The site can accommodate two loading spaces beneath and outside of the porte- cochere.
2. The service area, containing the dumpster, will be located at the southwestern corner of the site across the street from Turkey Hill's dumpster. The dumpster will be screened by brick walls with wooden gates. The dumpster enclosure walls will be brick matching the building. The walls of the dumpster enclosure are proposed to be ten feet in height.

#### **D. Architectural Standards**

1. As required by the zoning text, the architect has submitted a letter explaining the significant architectural features of the proposed building. The applicant explains the building is prototypical in function and layout but the appearance has been custom designed so it's massing, material and detailing is compatible to the Canini Trust Corp and greater New Albany.
2. The applicant proposes two brick types for the veneer (field and accent), chiseled face and smooth face cast stone, and fiber cement panels and trim, and EIFS. While the brick, EIFS, and composite material appear to be appropriate, staff recommends the Planning Commission evaluate the appropriateness of the cast stone. The entire first floor of the building is the cast stone which results in the building losing its vertical appearance making it inconsistent with other buildings in the retail development. Every other building in the Canini Trust Corp has utilized cast stone along the water table only. Staff recommends a condition of approval requiring the cast stone extends no high than the water table on all sides of the hotel structure.
3. Outside of the first floor material, the overall design of the building appears to be complementary in design to other buildings in the Canini Trust Corps, giving a unified appearance for this area. The building uses a variety of techniques to break up the overall mass of the building and provide visual interest to the façade.
4. The building has been designed as a traditional brick building and will be four stories in height. The overall height of the building will be 50 feet and exceeds the 45 foot maximum height allowed by the zoning text. This request is discussed in the staff report for the associated variance (V-61-2016).
5. The applicant has applied for a variance to Section 6(A)(12) of the Village's Design Guidelines and Requirements, which requires that buildings have operable and active front doors along all public and private roads. This request is discussed in the staff report for the associated variance (V-61-2016).
6. Zoning Text 8c.03(3)(b) states flat roofs are permitted but must incorporate strong cornice lines. The cornice lines on the building encompass the entire roofline.
7. Zoning Text 8c.03(3)(c) requires true divided light or simulated divided light windows with exterior muntins where appropriate to the building style. The applicant's architectural justification statement says the window system matches that of the Hampton Inn, which has been traditionally articulated though the use of applied muntions to simulate divided lite glazing.

8. No information on the mechanical equipment has been provided but it is assumed to be located on the roof of the building and will be fully screened from view of the public right-of-ways. Staff recommends a condition of approval that additional screen wall height or material is added, as necessary, to ensure 100% screening of all mechanical equipment, subject to staff approval.

#### **E. Parkland, Buffering, Landscaping, Open Space, Screening**

1. Per zoning text 8c.04(4)(a) parking lots shall be screened from rights-of-way within a minimum 36 inch high evergreen landscape hedge or wall. The landscape plan shows a 36" shrub to screen the parking lot from all the public and private roads adjacent to the site.
2. Codified Ordinance 1171.06(a)(3) requires one tree per 10 parking spaces. 125 parking spaces are provided, thereby requiring 13 trees. The PUD zoning text 8c.04(6) requires these trees be at least 2.5 inches in caliper at installation. The applicant proposes 14 parking lot trees on the plan that meet the minimum size requirements.
3. Codified Ordinance 1171.05(e)(3) requires a minimum of one tree for every 5,000 square feet of ground coverage and a total tree planting equal to ten inches plus one-half inch in tree trunk size for every 2,000 square feet over 20,000 feet in ground coverage. The site has a total ground coverage area of 78,965 which results in the requirements of having to provide 16 trees and a tree planting totaling 32 inches. 16 trees with a total dbh of 32 inches are provided.
4. The zoning text 8c.04(5) requires that there be a minimum of eight (8) deciduous or ornamental trees per 100 lineal feet planted throughout the setback areas along Forest Drive. The proposed site has approximately 310 feet of frontage along Forest Drive, therefore a minimum of 24 trees are required. These trees shall be either 2 ½ inch caliper deciduous shade trees, 1 1/2 inch caliper ornamental trees, or a combination of both. The landscaping is an important component of this site and will enhance the overall development. The requirement is met by the proposed 24 trees with various calipers shown on the landscape plan.
5. On September 15, 2014 a final development plan was approved for the Woodcrest Way extension. This development plan's landscape plan has a double row of street trees along Private Road "C." A single row of street trees (spaced 30 feet apart) is required along Woodcrest Way and Forest Drive. The required amount and size of street trees is being met.
6. The zoning text requires a minimum of 8% interior parking lot landscaping on the site. The amount of interior parking lot landscaping proposed is 5.6%. A variance has been requested.

#### **F. Lighting & Signage**

1. The applicant's plans shows conceptual signage and requests two variances related to signage. However, a sign package has not been submitted. Staff recommends that all signage be subject to staff approval.
2. The applicant requests a variance to allow limited uplighting to illuminate two proposed exterior wall sign that will be located beneath the building's cornice on



the south (Smith's Mill Road side) and west (Woodcrest Way & Johnstown Road side) elevations. This request is evaluated in the variance staff report. The ground signs must meet the designs in the 2013 Trust Corp Signage Recommendations plan. The city landscape architect has commented the monument sign should be located along Forest Drive frontage per the Trust Corp Signage Recommendations plan and a secondary, smaller wayfinding sign is permitted along the private unnamed road. Staff recommends this is subject to staff approval.

3. The applicant has submitted parking light details. The PUD zoning text 8b.05(1) requires all light poles shall be black or New Albany Green. Parking lot lighting shall be of a standard light source type and style, and be consistent throughout the subarea with a maximum height of 20 feet (including light fixture). All parking lot fixtures shall be cut-off style or goose neck style fixtures. The applicant is proposing a 20 feet tall holophane style light with a goose neck fixture which meets code requirements.

#### **G. Other Considerations**

1. Per subarea 8c.01(7) at least 176,000 square feet of building space shall be developed for office use in total between Subarea 8a, 8b and 8c. Currently only six spaces in the entire trust corp area have been developed. None of these developed sites contain office uses (two hotels, COTA park-n-ride, gas station with convenience store, Dairy Queen, and a day care).

#### **IV. ENGINEER'S COMMENTS**

The City Engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1159.07 and provided the following comment(s):

- 1) We reviewed the referenced FDP in accordance with Code Section 1159.07. All engineering related items included with this code section have been adequately addressed.
- 2) We have no comments on the proposed variances.

The engineering comments can also under separate cover from the consulting City Engineer, E.P. Ferris & Associates.

#### **V. RECOMMENDATION**

Staff recommends approval since the development plan appears to be generally consistent with the purpose, intent and standards of the zoning code and applicable I-PUD development text. The use appears appropriate for the site. The building appears to complement the existing structures, but staff has concerns regarding the extensive use of the cast stone on the first floor of the building.

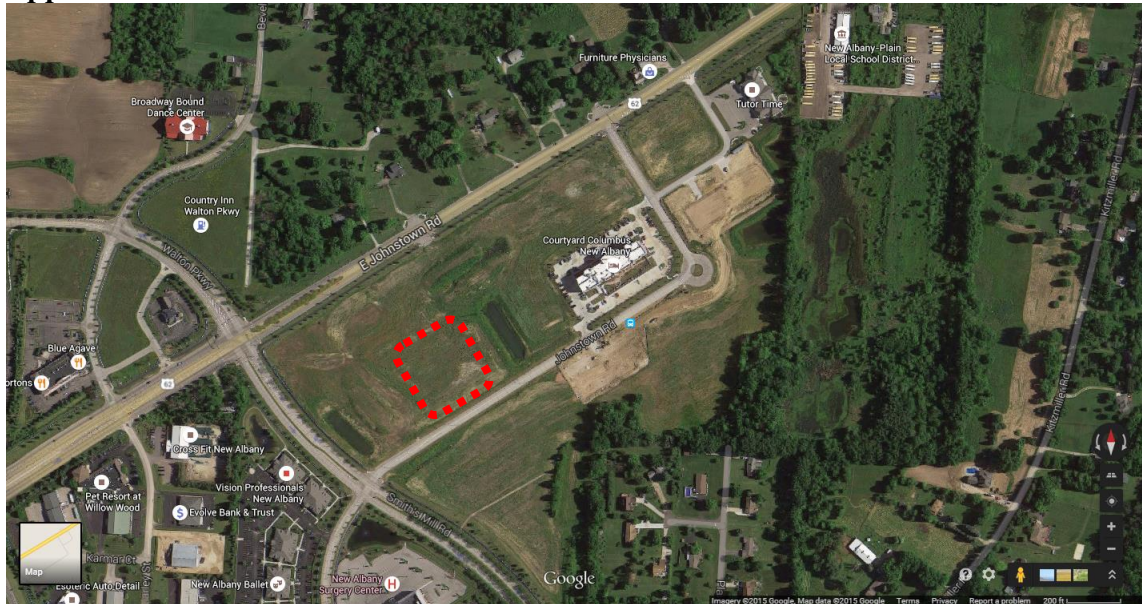
#### **VI. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate:

**Move to approve final development plan application FDP-60-2016 based on the findings in the staff report subject to the following conditions all subject to staff approval:**

1. This approval is contingent on the approval of Variance application V-61-2016.
2. The cast stone extends no higher than the water table on all sides of the hotel structure.
3. Additional screen wall height or material is added, as necessary, to ensure 100% screening of all mechanical equipment.
4. Signage is subject to staff approval.
5. Ground signs must meet the designs in the 2013 Trust Corp Signage Recommendations plan.
6. Cross access easements for the shared drive are recorded and submitted to staff.

**Approximate Site Location:**



Source: Google Maps



**Planning Commission Staff Report  
August 15, 2016 Meeting**

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**HOME2 SUITES BY HILTON  
VARIANCES**

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LOCATION: West of Forest Drive generally northeast of the Smith's Mill Road  
(PID: 222-000347)  
APPLICANT: Bean Architects  
REQUEST: Variances  
ZONING: Infill Planned Unit Development (I-PUD) Canini Trust Corp  
subarea 8a  
STRATEGIC PLAN: Neighborhood Retail District  
APPLICATION: V-61-2016

Review based on: Application materials received July 15 and August 1, 2016.

*Staff Report completed by Stephen Mayer, Community Development Planner.*

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**VIII. REQUEST AND BACKGROUND**

The applicant requests variances in conjunction with the final development plan for the Home 2Suites by Hilton hotel at the Canini Trust Corp Subarea 8a.

The variances requested are as follows:

- A. Variance to Canini PUD zoning text section 8a.01(9) to allow a building to be 50 feet in height where code permits a maximum height of 45 feet.
- B. Variance the Canini PUD zoning text section 8a.04(4)(c) to allow the interior parking lot landscaping area to be 5.6% where code requires a minimum interior parking lot landscaping area of 8% of the total area of the parking lot pavement.
- C. Variance to Canini PUD zoning text section 8a.05(d) to allow external uplighting of a wall sign where code prohibits uplighting or washing of the building.
- D. Section 8a.06(3)(i) to allow wall mounted signage to be located not adjacent to a public or private street. [Zoning Text allows one wall mounted sign on each elevation of the building that fronts or sides on a public street of private road]
- E. Waiver to Codified Ordinance Section 1157.01 (Design Guidelines and Requirements Section 6(A)(12)) to eliminate the requirement that buildings have operable and active front doors along all public and private roads.

**II. SITE DESCRIPTION & USE**

The site is currently vacant and is located within the area known as the Canini Trust Corp subarea 8a. The site will encompass approximately 2.49 acres located south of the New Albany Ballet Company, west of Forest Drive, and generally east of Turkey Hill. The Canini Trust Corp currently is home to the Dairy Queen, Turkey Hill, COTA park-n-ride facility, Hampton Inn and Suites, Marriott Hotel, and Tutor Time.

### **III.EVALUATION**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

#### ***Criteria***

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

- 37. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
- 38. Whether the variance is substantial.*
- 39. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
- 40. Whether the variance would adversely affect the delivery of government services.*
- 41. Whether the property owner purchased the property with knowledge of the zoning restriction.*
- 42. Whether the problem can be solved by some manner other than the granting of a variance.*
- 43. Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

- 44. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
- 45. That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
- 46. That the special conditions and circumstances do not result from the action of the applicant.*
- 47. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*

48. That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

#### **IV. RECOMMENDATION**

##### **Considerations and Basis for Decision**

##### **A. Variance to Canini PUD zoning text section 8a.01(9) to allow a building to be 50 feet in height where code permits a maximum height of 45 feet.**

The following should be considered in the Commission's decision:

1. The proposed building height will vary between 47 feet in height at the main roof line and 50 feet at the top of the tallest parapet wall.
2. The 47 foot minimum height is necessary due to the building being four stories in height and the construction method proposed for the building.
3. The majority of the parapet walls are designed to be approximately 47 foot height to likely screen rooftop mechanical equipment. Since the building will be visible from roadways on two sides, it is desirable to have the mechanical equipment on the roof, so it can be fully screened.
4. Just the center focal part of the building at the front elevation will extend to a height of 50 feet. The Marriot Courtyard hotel was granted a variance to allow its building to be 53 feet high and the Hampton Inn was granted a variance to allow its building to be 48 feet high.
5. The height requirement is a zoning text requirement. Other zoning texts with the same height restrictions include language that allow for parapet walls to be higher than the maximum height requirement without needing a variance.
6. In addition, allowing variations in the roof height provides visual interest to the building and breaks up the overall mass of the building. The height of the parapet is in scale with the rest of the building. A parapet of a lesser height might make the building appear "squished" at the top.
7. The variance does not appear to be substantial due to the location of the building in the middle of a large commercial site away from residential development.

##### **B. Variance the Canini PUD zoning text section 8a.04(4)(c) to allow the interior parking lot landscaping area to be 5.6% where code requires a minimum interior parking lot landscaping area of 8% of the total area of the parking lot pavement.**

The following should be considered in the Commission's decision:

1. The total lot coverage, which includes all areas of pavement and building coverage, shall not exceed 80% of the total lot area per subarea 8a.01(7). The plans show 78.1% lot coverage for the site.
2. The variance appears necessary to provide adequate parking and drive aisles for internal circulation. There are still sufficient tree islands at the ends and in the middle of parking rows.
3. The variance does not appear to be substantial. The applicant proposes 2.4% less open space than what is required by the zoning text. Additionally, the

zoning text has a larger requirement than what is required by City code. The city's landscape standards require a minimum of 5% parking open space. Therefore, while the parking lot open space is less than other lots within the Trust Corp, it is consistent with the overall city standards.

4. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**C. Variance to Canini PUD zoning text section 8a.05(d) to allow external uplighting of a wall sign where code prohibits uplighting or washing of the building.**

The following should be considered in the Commission's decision:

1. The applicant requests a variance to allow limited uplighting to illuminate two proposed exterior wall sign that will be located beneath the building's cornice on the south (Smith's Mill Road side) and west (Woodcrest Way & Johnstown Road side) elevations.
2. The zoning texts states "External building lighting shall be limited to wall mounted sconces. No uplighting or washing of the building shall be permitted." The zoning text prohibits internally illuminated signs. Downcast lighting is permitted and backlighting of individual letters are permitted subject to Planning Commission approval.
3. The uplighting would occur only at and on the wall signs on the building. The remainder of the building will have typical lighting fixtures and not be uplit.
4. The intent of this requirement is likely to ensure there is not an abundance of light pollution coming from the site.
5. The New Albany Ballet received approval to allow uplighting of one wall sign on its front façade. However, the New Albany Ballet is unique since it is designed to be a repurposed warehouse. Since the building is designed to appear as a repurposed warehouse a variance to allow a sign that is painted (adhered) directly on the brick and uplighting of the sign was approved since these sign elements are consistent with the theme and design aesthetic of the building. However, this hotel is prototypical in nature and does not appear to have a unique design aesthetic warranting uplighting.
6. The variance may be substantial. The New Albany Ballet is a two story structure. This hotel is a four story, 50 foot tall structure. The proposed sign is located much higher than the New Albany Ballet's sign which may result in greater off-site impacts.
7. Staff recommends the backlighting of individual letters as allowed by code.
8. It does not appear that the variance would adversely affect the delivery of government services.

**D. Section 8a.06(3)(i) to allow wall mounted signage to be located not adjacent to a public or private street. [Zoning Text allows one wall mounted sign on each elevation of the building that fronts or sides on a public street of private road]**

The following should be considered in the Commission's decision:

1. The applicant is requesting a wall sign on the south elevation of the building. The south elevation faces the business's parking lot and not a street.
2. The proposed building has three street frontages on the east (Forest Drive), north (unnamed private drive) and west (Woodcrest Way) sides of the property where wall signs are permitted. Per the zoning text, wall mounted signage is limited to one wall mounted sign, no larger than 80 square feet (allowed 1 square foot of signage for linear foot of building frontage up to 80 feet), for each elevation that fronts a public or private street.
3. The applicant's building elevations show wall signs on the south (Smith's Mill Road side) and west (Woodcrest Way & Johnstown Road side) elevations.
4. The applicant requests the variance so the site may have signage that addresses Smith's Mill Road.
5. The Marriott received approval for the same variance request with a condition that if signage is allowed on the south elevation then no wall signage is allowed on the Forest Drive elevation. Staff recommends this same condition for this application and that wall signage is limited to the Woodcrest Way and Smith's Mill Road facing elevations.
6. Locating signage on the southwest side of the building will allow the name of the hotel to be seen from Smith's Mill Road as guests approach from the highway. While signage is allowed facing Forest Drive, signage is not as important on this side of the building, as it is not as visible to approaching guests.
7. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**E. Variance to Codified Ordinance Section 1157.01 (Design Guidelines and Requirements Section 6(A)(12) to eliminate the requirement that buildings have operable and active front doors along all public and private roads.**

The following should be considered in the Commission's decision:

1. The applicant requests a variance to eliminate the requirement that the building have operable and active front doors along all public and private roads.
2. The building is designed to have the primary entrance face north (facing the private drive toward the New Albany Ballet) and to the east facing Forest Drive. The building does not contain an active front door on the side of the building fronting Woodcrest Way (private road).
3. The side of the building without a primary entrance facing Woodcrest Way contains windows on the first floor, service doors and brick detailing to add interest to the building so there will not be an extensive blank façade facing the roadway.

4. The applicant states the side of the building facing Woodcrest Way is essentially the “rear” of the building and it is facing Woodcrest Way in order to match the treatment by Turkey Hill (across the street) which also faces its rear façade onto Woodcrest Way. Turkey Hill also received a variance to eliminate the requirement that an active door face Woodcrest Way.
5. The intent of this requirement is to require operable entrances to face roadways to help the building maintain a street presence and active street, especially in pedestrian oriented areas. This site is auto-oriented. Therefore, in this scenario doorways do not have the same importance to the pedestrian streetscape.
6. The Marriott was granted a waiver to back onto Forest Drive in order to front Woodcrest Way. The justification offered for that waiver focused on the the height of the hotel and the appropriateness of a larger building being oriented toward the west. This ballet building is south oriented towards a private street.
7. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

In summary, staff supports the granting of the abovementioned variances except for the sign uplighting. Placing uplighting at the top of a prototypical designed four story hotel may result in off-site impacts and does not appear to meet the intent of the zoning regulations. For these reasons, staff does not support the uplighting variance.

It appears that the remaining variances are appropriate based on the unique nature and building design of this proposed hotel project. Additionally, it does not appear that the granting of the four staff supported variances will adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

## **V. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

### **Move to approve application V-61-2016 based on the findings in the staff report with following condition of approval (conditions may be added)**

1. Wall signage is limited to the Woodcrest Way and Smith’s Mill Road facing elevations.

### **Approximate Site Location:**





Source: Google Maps