



Planning Commission

Meeting Minutes

October 17, 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 7:06 p.m.

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

Staff members present: Adrienne Joly, Deputy Director; Stephen Mayer, Planner; Ed Ferris, City Engineer; Mitch Banchefsky, City Attorney; Mike Barker, Development Services Manager; Jay Herskowitz, City Engineer and Pam Hickok, Clerk.

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

Mr. Mayer requested to remove item TM-75-2016, text modification/variance.

Ms. Joly stated that this application was submitted and after reviewing it with the law director it was determined that this application needs to an ordinance heard by City Council. Neighbors have been notified of the new date, November 1, 2016.

Mr. Kirby asked for an explanation.

Ms. Joly stated that A&F zoning text that was approved in 2006 had a restriction on the central college gate and the access. A&F has requested to remove that restriction. The zoning text states that the village has the ability to modify the conditions. We determined that the right place for that was council.

Mr. Kirby stated that with the contentious nature of that access I want to make sure neighbors will be heard.

Mr. Mitch Banchefsky stated that by doing it as a legislative action the notification will be broader.

Mr. Kirby asked if we have the records and minutes from the original meetings.

Ms. Joly stated that we have the 2006 Planning Commission and Council minutes.

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

Mr. Wallace moved to approve the September 19, 2016 meeting minutes, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

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. Durik. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, 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. Stephen Mayer presented the staff reports.

Mr. John Gleason, on behalf of the property owners at 10 & 11 Highgrove. He continued that he would like to go over the general issues for both properties and provide some background for the new board member. We believe this variance is appropriate given the lots' size, location, accessibility and there is fencing around both properties. We believe that section 1173.02(c) is satisfied because the pools are enclosed and effectively prevent a child from crawling and otherwise passing through or under such fence or barrier. The narrative statements previously submitted address both the Duncan factors and the criteria in section 1113.06. Based on prior staff and commission comments we are proposing additional landscaping and the pool net which we believe addresses the issues that have been raised. We believe these proposed changes put it in line with other variances that were approved. To highlight, staff agrees that properties have limited access due to the golf course, unlikely to receive through traffic and the five foot fencing alongside prevents access from neighbors. We need to address access from golf course - through or under the fence. This property has not had any problems in many years and the Langdale property has had no issues in 9-10 years. The staff report indicates that the golf course property line does not have the amount of mounding and landscaping that will prevent access. We disagree with that. Mr. Dulick has agreed to add eight - ten foot trees between the pool and the horse fence.

Mr. Kirby asked if he had any pictures to show the proposed landscaping.

Mr. Gleason showed pictures at the dais. He stated that ARC needs to approve the landscape plans. In addition, they will be adding 36" boxwoods around the pool at 11 Highgrove. ARC has not approved the landscaping at 10 Highgrove but we are proposing to install fourteen 8-10 foot trees and enclose the pool area with 36" boxwoods.

Mr. Durik asked if the boxwoods are planted at 36" or will grow to 36".

Mr. Gleason stated that ARC is requiring 36" at installation and 8' trees at installation.

Mr. Wallace asked which plan has been approved by ARC.

Mr. Gleason stated that 11 Highgrove plans have been approved by ARC. 10 Highgrove has existing trees along the fence line. He approached the dais with pictures of 6958 Lambton Park mounding.

Mr. Kirby asked him to tell him about the photography.

Mr. James Dulick, 11 Highgrove, stated that he took pictures.

Mr. Kirby asked if it was a cropped picture or the full image.

Mr. Dulick stated that it was the full image standing just outside the fence between the first east tee and their property. The first picture was from the walking path on SR 62.

Mr. Kirby asked if the camera's zoom was used.

Mr. Dulick stated that he zoomed in as much as his camera would.

Mr. Kirby asked how much zoom he used.

Mr. Dulick stated that he is not sure but you can clearly see when you're standing on the tee if there are people in that.

Mr. Kirby stated that we need to be careful. What the image shows is what it shows. What it purports to show is another matter. How it is shot can change the picture.

Mr. Dulick stated that it was to show that the pool was being used and there was no mounding for a considerable portion of the property.

Mr. Spalding asked if the conditions in these pictures are meeting what is required. Is this what was approved?

Ms. Joly stated that the golf course side is not what was approved by this board and is why we are in an enforcement process.

Mr. Gleason stated that the pictures were to show that there are gaps in the landscaping and we believe that our landscaping is much better. I was unaware that there was an enforcement action pending. The property on Lambton Park is adjacent to the walking path and SR 62 and therefore more likely that children would enter the pools on a major thoroughfare. The other issue raised by staff was the lack of a pool cover. Unfortunately the shapes of these pools do not allow for a pool cover. We are proposing a pool net that is ASTM compliant. We understand that the net is only good if it is used just like pool covers. The pool net is on a pulley system and is a one person effort to install. We believe that the landscaping, location and the pool net addresses staff concerns.

Mr. Steele asked if is ASTM compliant and is it the homeowners intention to have it in place all 12 months within a year when the pool is not being used.

Mr. Dulick stated that we have a hard cover for the winter and the pool net for warmer weather when not in use. (audience member also speaking in agreement)

Mr. Kirby asked the audience member to introduce himself for the record.

Mr. Robert Lewinski from 10 Highgrove.

Mr. Spalding confirmed that these properties have a code complaint fence around everything except the golf course.

Mr. Gleason stated yes. He continued to inform the board that he provided a letter from the insurance company regarding pool safety specific to these properties. I want to address some of the concerns from previous meetings. Mr. Wallace voted no because one there was no code complaint fencing along Johnstown Road. This situation is different we have code complaint fencing on the sides. Unlike the Lambton Park pool we are only missing the code compliant along the golf course. Second - pool cover information not sufficient.

Mr. Kirby states that ASTM tells you how strong it is not how safe it is.

Mr. Gleason stated that common sense would tell me that a 4 foot code compliant fence is just as easy to climb over as a 3 foot fence. I would say that a 3 foot fence with a pool net is safer. Mr. Shockey stated limited access, no neighboring property and he mentioned the size of the lot on Lambton Park. Mr. Gleason stated that the size should not be a determining factor because the access is different due to the public leisure trail on Johnstown Road. Mr. Steele indicated that appropriate actions and in totality the variance should be

approved. I understand the issues but believe the mitigating factors have been addressed.

Mr. Kirby asked for him to explain the fencing on the properties.

Mr. Gleason showing on the map the existing fencing.

Mr. Lewinski stated that we have 10ft trees along the horse fence and explained the fencing and the additional landscaping.

Mr. Kirby asked the height of the horse fence.

Mr. Gleason stated that is between 33-40 inches.

Mr. Durik summarized his understanding of the properties.

Mr. Dulick stated that 36" boxwood edge and additional landscaping. You will not be able to see the pool from the golf course with the landscaping approved by the ARC.

Mr. Durik summarized his understanding of the existing and new landscaping on Mr. Dulick's property.

Mr. Spalding asked the height of the fence.

Mr. Dulick stated that I have a fourth rail at the bottom to keep my small dog in the yard.

Mr. Spalding asked about the fence maintenance.

Mr. Gleason stated that we have prepared an easement agreement regarding the fence maintenance that is in the process of being reviewed by the attorneys.

Mr. Dulick stated that at the last meeting someone asked how far the neighbor is. We measured and they are 40'. Mr. Steele raised the option of a glass pool fence. I contacted my brother about a glass pool fence and he said the downside is the lack of breeze and patio gets very hot. We have done an extensive landscaping plan and tried to address all the concerns. The pool cover not an option. We have had no issues with pool or breach of property. We are trying our best to satisfy the concerns of the board, provide for the safety of community while keeping the aesthetics of the property we purchased.

Mr. Kirby asked if the boxwoods would meet code as a complaint fence.

Mr. Dulick stated that it would have a gap at the walkway.

Mr. Wallace using a map explained the location of the boxwoods.

Mr. Steele stated that the southwest corner has an unfenced pond on the golf course property.

Mr. Wallace stated that while reviewing the landscape plan for the Lewinski property.

Mr. Lewinski used the map to show the location of the landscaping and explained that we have walkway openings.

Mr. Kirby stated that other than that walkway gap the boxwood would bring you into compliance.

Mr. Lewinski stated that if landscaping fence is acceptable then yes.

Mr. Wallace stated I think we are trying to determine if the boxwoods will be impermeable to a child.

Mr. Lewinski stated that I could argue that the 10' arborvitae hedge already acts as the barrier.

Mr. Wallace stated that I thought I saw pictures showing the arborvitae with the fence and it showed gaps.

Mr. Gleason stated we had some pictures in the past.

Mr. Wallace asked if any plans have been approved to fill in the gaps.

Mr. Gleason stated that these hedges will grow in together.

Mr. Kirby asked if a 4 rail horse fence could be installed.

Mr. Gleason stated that it would require NACO approval and my understanding is that the 4 rail horse fence are outside of the country club properties.

Mr. Tom Rubey stated that it would require ARC approval. If putting a 4 rail fence resolves this issue by all means.

Mr. Kirby stated that I'm just looking for options that will make people happy.

Mr. Spalding stated that as a reminder the change we made to our ordinance lowers the height to what.

Mr. Kirby stated that it went from five to four feet.

Mr. Spalding asked if the 4 rail fence would meet the height requirement.

Ms. Joly stated that it would meet the height but not the intent to prevent unobstructed access but with the layering it would be a justification.

Mr. Kirby stated that it would bring this more comparable case because the Lambton Park didn't have a fence lower than four feet.

Mr. Banchefsky stated that is incorrect, they have the same 3 rail fence on the golf course side.

Mr. Steele asked if they would willing to maintain the existing landscaping and add all of the proposed landscaping and use the pool net when not in use with adult supervision.

From audience stated that will be our intent.

Mr. Durik asked when the landscaping would be installed. It will be started the first week of November. The landscaper is trying to find eight identical hornbeams. I think I can say it would be complete by the end of November.

Mr. Lewinski stated that we need ARC approval but better to plant in fall rather than waiting until spring.

Mr. Kirby asked if you would be willing to put a gate in the gaps of the boxwoods.

Mr. Dulick stated yes if necessary but don't want to.

Mr. Lewinski stated same, if necessary.

Mr. Kirby stated that when something looks like it may become a condition I try to determine if the applicant is agreeable. Reviewing the landscape plan regarding boxwoods.

Mr. Wallace asked if they still need ARC approval.

Mr. Gleason stated that we have met with ARC and we will satisfy ARC if they have conditions.

Mr. Wallace stated that we are discussing how to approve with conditions.

Ms. Joly stated you should include the pool net and the agreement.

Mr. Steele stated that the pool net should be in place when not attended by a responsible adult and they are to maintain existing screening as well as additional landscaping.

Ms. Joly stated that if they are adding a condition about landscaping; reference the plans presented tonight and add an install date.

Mr. Gleason stated that once we have ARC approval we will submit the plans to staff and as long as it is as much or more than shown tonight

Mr. Wallace stated that the landscape plan will be subject to ARC and staff approval.

Mr. Kirby and Mr. Wallace compared the conditions for each variance.

Mr. Wallace verified that the Roberto pool fence has not been installed.

Mr. Kirby stated that we want an enforcement date.

Ms. Joly stated that from an enforcement standpoint a really good idea.

Mr. Gleason stated that I don't mind a deadline but would like the ability to work with staff.

Mr. Kirby stated that winter (hard) cover stays on until compliance is met.

Mr. Wallace stated that we don't want the pool used when they don't have compliance. I would like to have a condition that the winter cover is installed and when.

Mr. Lewinski stated that we may need a month to get the pool company out to install the winter cover.

Mr. Dulick how about November 1st.

Mr. Wallace moved to approve V-51-2016 based on the findings in the staff report and subject to the following conditions:

1. Landscaping approved by ARC and staff to include original and tonight's submissions.
2. Commitment to install boxwoods or gates at all gaps/openings around the pool.
3. Pool netting or hard cover ASTM compliant installed at all times when not in use and not attended by a responsible adult.
4. Applicant commits to maintain landscaping, screening, and any new plantings.
5. The pool netting is certified annually by the homeowners for ASTM in place functional.
6. Hardcover installed no later than 11/1/16 and will not removed until compliance with the conditions are met.
7. The applicant provide a copy of the easement to permit the homeowner to maintain the fence and shows the homeowner is obligated to maintain the fence in the event the NACO does not, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr.

Wallace, no; Mr. Steele, yea; Mr. Durik, yea. Yea, 3; Nay, 1; Abstain, 0. Motion passed by a 3-1 vote.

Mr. Wallace stated that he voted no because of variance compliance factors. The property would have a reasonable return without the variance, believes variance is substantial, essential character of neighborhood would not change, property owners were aware of the restrictions, original permit showed code complaint fence and it was not installed per approved plan. Finally, the applicant did not prove pool netting safety was equivalent to the safety provided by the fencing requirement.

Mr. Kirby moved to approve V-52-2016 based on the findings in the staff report and subject to the following conditions:

1. Landscaping approved by ARC and staff to include original and tonight's submissions.
2. Commitment to install boxwoods or gates at all gaps/openings around the pool.
3. Pool netting or hard cover ASTM compliant installed at all times when not in use and not attended by a responsible adult.
4. Applicant commits to maintain landscaping, screening, and any new plantings.
5. The pool netting is certified annually by the homeowners for ASTM in place functional.
6. Hardcover installed no later than November 1, 2016 and will not removed until compliance with the conditions are met.
7. The applicant provide a copy of the easement to permit the homeowner to maintain the fence and shows the homeowner is obligated to maintain the fence in the event the NACO does not, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, no; Mr. Steele, yea; Mr. Durik, yea. Yea, 3; Nay, 1; Abstain, 0. Motion passed by a 3-1 vote.

Mr. Wallace stated he voted no for the same reasons listed previously.

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 Home2 Suites by Hilton along Forest Drive within the Canini Trust Corp subarea 8a (PID: 222-004860).

Applicant: J. Carter Bean Architect, LLC

Mr. Mayer presented the staff reports.

Mr. Kirby asked about the color of the brick. Picture looks different than the renderings on the PowerPoint.

Mr. Carter Bean placed samples out for the board.

Mr. Durik asked if this brick is used in New Albany.

Mr. Rubey stated that the brick color is part of the approved palette.

Mr. Mayer continued with the staff report.

Mr. Steele asked if the existing hotels have up lighting.

Mr. Mayer stated no and continued with the staff report.

Mr. Kirby asked if any doors were on the side elevation.

Mr. Bean stated that the pool has doors on the north side of the primary building but on the east and west sides of the projection.

Mr. Mayer continued with the staff report.

Mr. Durik asked why we are departing from the traditional windows.

Mr. Mayer states that the code requires muttons when appropriate for the architecture. We feel the muttons are not required due to the modern architectural design.

Mr. Ferris stated no engineering.

Mr. Carter Bean, Bean Architects, stated that the color shift on the pictures but I have samples below.

Mr. Steele asked if the color shift is magnified in this picture.

Mr. Bean provided the samples to the renderings at the dais.

Mr. Kirby asked if the up lighting can go away.

Mr. Bean stated that we would use halo lighting if the up lighting was not approved. Information for both types of lighting was submitted.

Mr. Spalding asked if they can have two monument signs.

Mr. Mayer stated yes. This area has a sign master plan.

Mr. Kirby asked if he had any conflicts with the staff conditions.

Mr. Bean stated that he is fine with the conditions on the variance.

Mr. Kirby asked if we had a letter from the fire department.

Mr. Bean stated yes, staff should have it.

Mr. Mayer confirmed.

Mr. Bean stated the screening of roof top units is the reason we are asking for a height variance. I would like the condition to read if the roof top units are visible after construction we would add additional screening. We did that on the ballot.

Mr. Kirby reviewed the remaining staff conditions.

Mr. Steele asked if any concerns with the Forest Drive entrance and shared access and the location of the closest landscape island.

Mr. Bean responded that we don't have a concern. Most of the traffic will be from private road C.

Mr. Wallace asked if the up lighting request is withdrawn.

Mr. Bean stated yes.

Mr. Spalding stated that he appreciates the work that was put into this application. The carport canopy looks unfinished.

Mr. Bean stated that the canopy are this style but are typically white. We decided to keep it the charcoal gray with the building palette. We think the clean lines with the modern architecture.

Mr. Wallace moved to approve FDP-60-2016 based on the findings in the staff report and subject to the following conditions:

1. Additional interior site landscaping is added so there is a minimum of 16 trees and a tree planting totaling 32.5 inches provided, subject to staff approval.
2. This approval is contingent on the approval of Variance application V-61-2016.
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, seconded by Mr. Durik. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby moved to approve V-61-2016 based on the findings in the staff report and subject to the following conditions:

1. Wall signage is limited to the Woodcrest Way and Smith's Mill Road facing elevations.
2. Part C is withdrawn from this application and not approved, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

TM-75-2016 Text Modification / Variance

Modification / Variance to the Abercrombie & Fitch Limitation Text to modify vehicular access on Central College Road (PID: 222-001950).

Applicant: Abercrombie & Fitch Management Co. c/o Jackson B. Reynolds, III

Mr. Kirby stated that our packet memo states that this application should be tabled but the request is now to withdraw from our docket.

Ms. Joly stated that we don't hear it.

Mr. Banchefsky stated that it was taken off the agenda at the beginning of the meeting.

ZC-81-2016 Zoning Change

Rezoning 6.7 ± acres of land located generally located at the southeast corner of the Beech Road and Worthington Road intersection, and separate parcels located on the north and south sides of Lucille Lynd Road for an area to be known as "Beech Interchange District subareas E, H, and G" from its current zoning of "AG" Agricultural to "L-GE" Limited General Employment and "L-OCD" Limited Office Campus District (PID: 094-106830-02.000, 082-106830-01.000, 093-107136-01.000, and 094-109296-00.000)

Applicant: MBJ Holdings c/o Aaron Underhill Esq.

Mr. Mayer presented the staff report.

Mr. Ferris presented the engineering comments.

Mr. Rubey stated that they agree with all conditions.

Mr. Kirby asked if the if lots are combined then the setbacks merge into a unified piece.

Mr. Rubey responded correct and the tree preservation.

Mr. Steele asked about residential neighbors.

Mr. Rubey stated that the piece next to Dublin Granville Road is the park and ride, the piece to the north is adjacent to the Lynd's fruit farm and the other property further north by the expressway is across the street.

Mr. Mayer showed on the map Lynd's fruit farm and the storage facility.

Mr. Kirby moved to approve ZC-81-2016 subject to the following conditions.

1. Subarea H text is modified to read "The perimeter subarea setback for commercial properties is a minimum of 25 foot building and pavement."

2. Every subarea in the text requires Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.

3. Subject to engineering conditions.

, seconded by Mr. Durik. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Amendment to Codified Ordinance Chapter 1125 (Community Authority)

Ms. Joly presented the amendment.

Mr. Kirby asked if the new authority has a limit.

Ms. Joly stated no.

Mr. Steele asked if there is any operative impact. What is the result?

Ms. Joly stated that right now because all of this land is owned by the New Albany Company and when they annex they file the correct documents. We could lose the ability to get the funding mechanism.

Mr. Kirby stated that it would become a competitive weapon if one property didn't need to be part of an authority. A property can be annexed and would become AG zoning. When it is rezoned is when it would be required to be part of the authority.

Ms. Joly stated that it a good tool for funding infrastructure projects.

Mr. Kirby asked if this gives us a problem with funding models changing at the county line.

Ms. Joly stated that I don't think it will be a problem just something that we will need to stay aware of.

Mr. Kirby asked if the new authority can fund the police department with a new vehicle or substation.

Ms. Joly stated that it's just like any other project. We have an agreements for each authority and what they are responsible for.

Mr. Kirby stated that we don't want a visible line between the counties.

Mr. Durik moved to recommend approval to Council the amendment to Codified Ordinance section 1125, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Amendment to Codified Ordinance Chapter 1155 (Flood Damage Reduction)

Ms. Joly presented the amendment

Mr. Banchefsky stated that the FEMA program is stated as low cost but it really is not anymore because they have taken some big hits. You can't buy this type of insurance without being in the FEMA. We have to get this approved by ODNR. They have a model ordinance, we tried to take out some items that don't apply to New Albany but ODNR would not allow it. ODNR has final approval and may have some minor changes and we would not plan on bringing it back unless they are significant changes.

Mr. Wallace asked if it is only the people who touches the floodplain.

Ms. Joly stated that anyone in the community can sign up.

Mr. Kirby stated that it only takes one thing to cause a flood where you don't expect.

Mr. Steele asked if this would create a fiscal or administrative burden on the city.

Ms. Joly stated that not from a fiscal standpoint. From an administrative side it can add a layer of coordination with FEMA that would be new for us. We may have more training.

Mr. Kirby asked if it will be easier to get developers further away from floodplains.

Ms. Joly stated that Pickett Place is one place we have looked at. I think that is more of a final development plan issue.

Mr. Kirby stated that on the other side of Rose Run.

Ms. Joly stated that for all of the years of investigation they believe it is a ground water issue so this would not apply. If they are contiguous they need to prove that they are using the correct flood protection mechanism.

Mr. Kirby asked if we can regulate things within so many feet of the floodplain.

Mr. Herskowitz stated that you need to be 20' setback.

Mr. Barker stated that it is based on a horizontal separation from the face of the foundation wall to the floodplain.

Ms. Joly stated that we have three FEMA studied streams in New Albany. We would apply it to any unstudied streams as well.

Mr. Durik moved to recommend approval to Council the amendment to Codified Ordinance section 1155, seconded by Mr. Kirby. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Appointment of Board of Zoning Appeals Representative

Mr. Kirby moved to to nominate Mr. Durik as Board of Zoning Appeals representative for the remaining 2016 year. , seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 9:23 p.m.

Submitted by Pam Hickok



**Planning Commission Staff Report
October 17, 2016 Meeting**

**10 HIGHGROVE
POOL FENCE VARIANCE**

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 and October 3, 2016.

Staff report prepared by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

The Planning Commission reviewed and tabled this application on July 18 and August 15, 2016. The applicant requested the application be tabled so they could discuss landscaping changes with the homeowner's association. The applicant states the homeowner is prepared to add a pool net and will obtain a letter from their insurance company. The applicant states they've provided two certifications showing the pool netting passes all of the requirements of ASTM-F1346-91 entitled *Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs*. However, it appears to staff only one of the documents clearly mentions it pertains to pool netting.

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 18th.
- 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 an automatic 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 an automatic pool cover is a notable distinction from other similar approved variances and has been seen as an important factor to ensure safety. The Planning Commission has previously conditioned other pool fence variance applications to have an ASTM compliant automatic pool cover. The applicant proposes to use an All-Safe brand pool safety net in lieu of an automatic pool cover. A notable distinction of this pool safety net is that it must be manually installed and removed. All previous variance applications include an automatic pool safety cover which allows the owner to cover the pool with a flip of a switch. The applicant has provided documentation showing, when installed, an All-Safe brand pool safety net are ASTM compliant. If additional measures, such as landscaping and an automatic pool cover, were included in the request, the application would be more closely aligned with other similar applications.

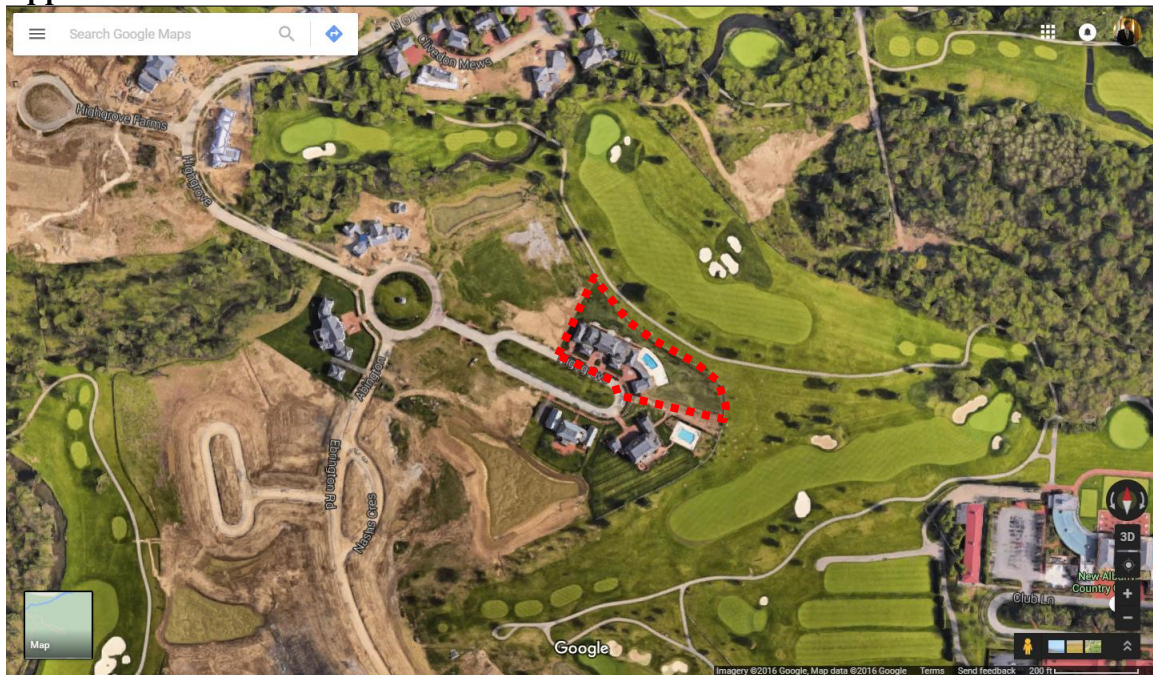
VIII. ACTION

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
October 17, 2016 Meeting**

**11 HIGHGROVE
POOL FENCE VARIANCE**

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 and October 3, 2016.

Staff report prepared by Stephen Mayer, Community Development Planner.

IV. REQUEST AND BACKGROUND

The Planning Commission reviewed and tabled this application on July 18 and August 15, 2016. The applicant requested the application be tabled so they could discuss landscaping changes with the homeowner's association. The applicant has indicated to staff they are researching pool netting in-lieu of a pool cover. The applicant states the homeowner is prepared to add a pool net and will obtain a letter from their insurance company. The applicant states they've provided two certifications showing the pool netting passes all of the requirements of ASTM-F1346-91 entitled *Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs*. However, it appears to staff only one of the documents clearly mentions it pertains to pool netting.

Since the last meeting the applicant has also submitted a HOA approved landscape plan to provide additional screening for the pool. The plan proposes to install a 36 inch tall boxwood hedge immediately around the south and west sides of the pool walkways. Eight 8-10 foot tall European Hornbeams are also proposed to be installed between the pool and the golf course.

The applicant has also submitted a letter from their insurance company stating the company is aware and do not have any underwriting concerns regarding the pool and the property's perimeter fencing.

With respect to the encroachment/maintenance issues, the applicant is working with the New Albany Company (NACO) on an easement to permit Mr. Dulick to maintain the fence in the event the NACO does not, as well as confirm that the location of the pool is

acceptable to NACO. The applicant states they will provide a copy of this once it is completed.

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 18th.
 - 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. The applicant proposes landscaping immediately around the pool itself with

additional trees on the south side of the pool. However the trees are only on one side of the pool and do not run the entire length of the golf course. 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 an automatic pool cover is a notable distinction from other similar approved variances and has been seen as an important factor to ensure safety. The Planning Commission has previously conditioned other pool fence variance applications to have an ASTM compliant automatic pool cover. The applicant proposes to use an All-Safe brand pool safety net in lieu of an automatic pool cover. A notable distinction of this pool safety net is that it must be manually installed and removed. All previous variance applications include an automatic pool safety cover which allows the owner to cover the pool with a flip of a switch. The applicant has provided documentation showing, when installed, an All-Safe brand pool safety net are ASTM compliant. If additional measures, such as landscaping/mounding and an automatic pool cover, were included in the request, the application would be more closely aligned with other similar applications.

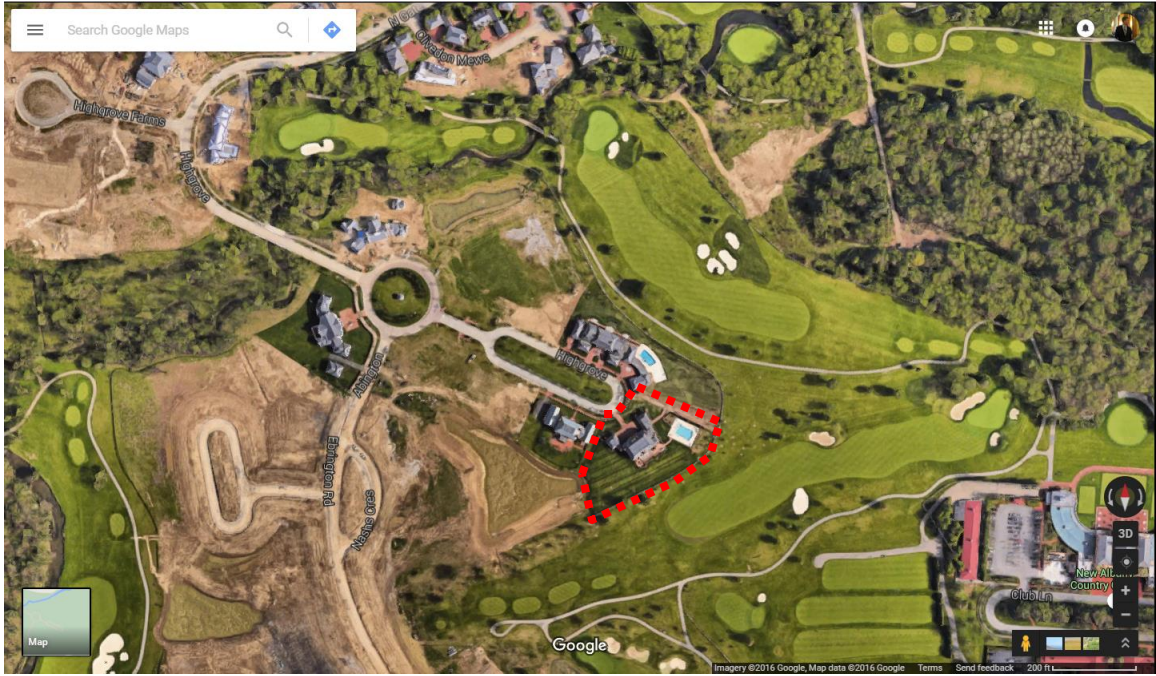
VIII. ACTION

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.
11. The applicant provide a copy of the easement to permit Mr. Dulick to maintain the fence in the event the NACO does not.

Approximate Site Location:



Source: Google Maps



**Planning Commission Staff Report
October 17, 2016 Meeting**

**HOME2 SUITES BY HILTON
FINAL DEVELOPMENT PLAN**

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 and October 3 and 6, 2016.

Staff Report completed by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

The Planning Commission tabled this application on August 15, 2016 so the applicant could revise the exterior of the building. Revised building designs and materials have been submitted. The building footprint has been slightly modified. The overall site plan has not changed with the exception of the modified building footprint.

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 62,473 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.

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

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 62,473 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 79.5% lot coverage for the site.
4. The zoning text requires the following setbacks:

Requirement	Proposed
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 66 +/- foot building
30 foot building & 20 foot pavement setback from Forest Drive	20 foot pavement 129 +/- 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. Section 8c.03 of the zoning text requires "building designs shall be consistent throughout the entire development. Styles should be based on traditional American styles including Georgian, Colonial, Federal and Classical Revival, Barn, or Vernacular forms that reinforce a common historic architectural vocabulary, unless otherwise approved by the Planning Commission. Explanation and justification for any building design shall be submitted with the final development plan. Buildings shall be designed to be seen from 360 degrees with the same caliber of finish on all facades/elevations."
2. The city architect has reviewed the building elevations and comments that the proposed Home2 Suites by Hilton is a better overall architectural design than the other existing structures in the vicinity. The design is clear in overall concept and successfully accomplishes the architect's intent, which is a modern treatment of form using traditional materials. This is a modern treatment of form using traditional materials. The clear, overall concept of this proposed building does not reinforce, but instead contradicts, New Albany's common historical architectural vocabulary which requires the architecture to reinforce a common historic architectural vocabulary. The modern corner tower, the punched window openings, the tight skin of its facade, and monumental treatment of form, materials, and linear element; this structure does not adhere to the limited architectural vocabulary of the city guidelines and zoning text requirements.
3. The zoning text states the building designs shall be consistent throughout the entire development, but should be based on traditional American styles. Staff interprets "*shall*" in city code to be required and "*should*" as being a recommendation. The text states the Planning Commission can approve architecture that is does not reinforce a common historic architectural vocabulary.
4. Although the building successfully accomplishes a non-traditional design, and city architect comments for a hotel chain this is a decent building, its design not consistent with the entire development.
5. Section 8c.03 of the zoning text requires cementitious products such as Hardi Plank or its equivalent cementitious product, brick, wood siding, culture stone and composition material may be used as exterior wall finish materials where

- appropriate. Exterior wall finish materials must be used to complete massing elements. The application of brick veneer to a single building facade is prohibited. Alternative building materials may be used subject to Architectural Review District approval procedure. (Chapter 1157)
6. The applicant proposes two brick types for the veneer (field and accent) as the primary building elevation materials, with EIFS and metal panels used on the remainder of the elevations. Every other building, except one, in the Canini Trust Corp has utilized a red, traditional brick. The proposed brick colors for this building do not appear to be consistent with the entire development. Modifying the proposed brick color pallet for this building to one more consistent with neighboring hoteling, may result in the building being more consistent with the entire development.
 7. The building is four stories in height. The overall height of the building is 58 feet to the top of the corner tower's lantern and 52 feet to the base of the lantern feature. The primary massing of the building is 48'8" 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).
 8. 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).
 9. Zoning Text 8c.03(3)(b) states flat roofs are permitted but must incorporate strong cornice lines. Staff recommends that cornice is not required since it is not an appropriate element for a non-traditional building such as what is proposed.
 10. 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 building has a non-traditional design and therefore true divided light or simulated divided light windows with exterior muntins does not appear to be appropriate.
 11. 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 80,344 which results in the requirements of having to provide 16 trees and a tree planting totaling 32.5 inches. 14 trees with a total dbh of 28.5 inches are provided. Staff recommends a condition of approval that additional interior site landscaping is added so there is a minimum of 16 trees and a tree planting totaling 32.5 inches provided, subject to staff approval.
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

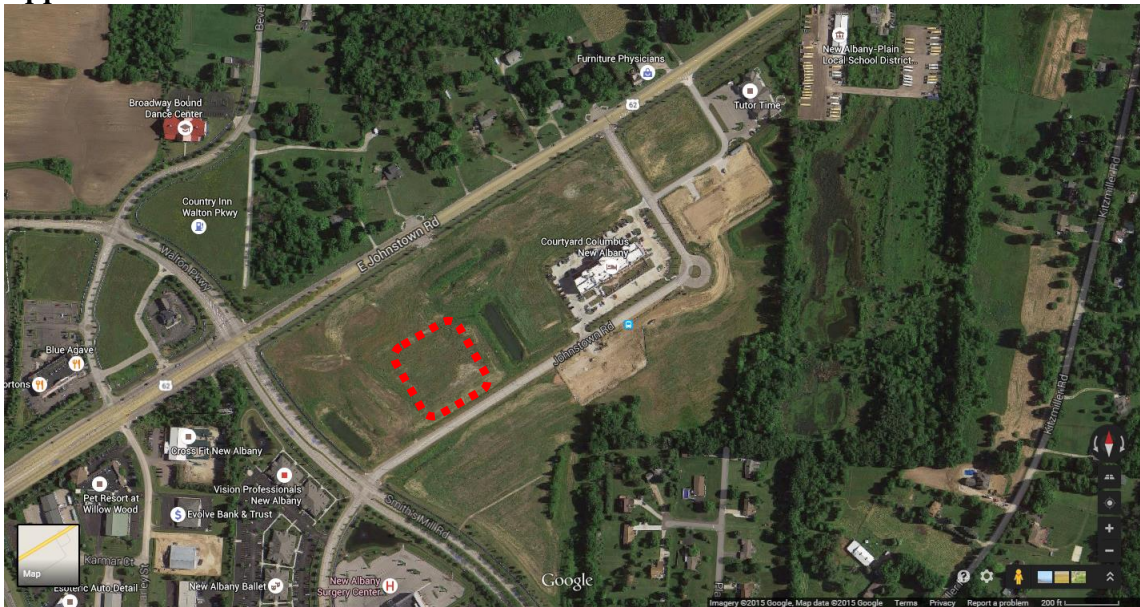
Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate:

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. Modifying the proposed brick color pallet for this building to one more consistent with neighboring hoteling.
2. Additional interior site landscaping is added so there is a minimum of 16 trees and a tree planting totaling 32.5 inches provided, subject to staff approval.
3. This approval is contingent on the approval of Variance application V-61-2016.
4. The cast stone extends no higher than the water table on all sides of the hotel structure.
5. Additional screen wall height or material is added, as necessary, to ensure 100% screening of all mechanical equipment.

6. Signage is subject to staff approval.
7. Ground signs must meet the designs in the 2013 Trust Corp Signage Recommendations plan.
8. Cross access easements for the shared drive are recorded and submitted to staff.

Approximate Site Location:



Source: Google Maps



**Planning Commission Staff Report
October 17, 2016 Meeting**

**HOME2 SUITES BY HILTON
VARIANCES**

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.

III. REQUEST AND BACKGROUND

The applicant requests variances in conjunction with the final development plan for the Home 2 Suites 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.

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. 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.

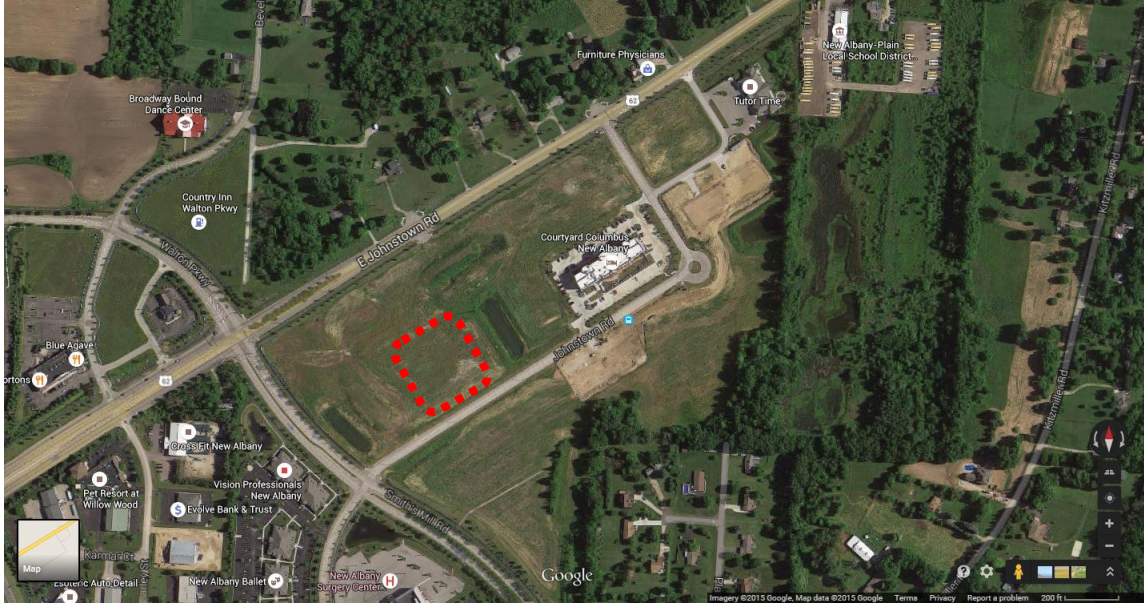
V. ACTION

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



**Planning Commission Staff Report
October 17, 2016 Meeting**

**BEECH INTERCHANGE ZONING DISTRICT SUBAREAS E, G & H
ZONING AMENDMENT**

LOCATION: Generally located at the southeast corner of the Beech Road and Worthington Road intersection, and separate parcels located on the north and south sides of Lucille Lynd Road (PID: 094-106830-02.000, 082-106830-01.000, 093-107136-01.000, and 094-109296-00.000))

APPLICANT: MBJ Holdings c/o Aaron Underhill Esq.

REQUEST: Zoning Amendment

ZONING: AG Agricultural to “L-GE” Limited General Employment and “L-OCD” Limited Office Campus District

STRATEGIC PLAN: Office District

APPLICATION: ZC-81-2016

Review based on: Application materials received October 3, 2016.

Staff report completed by Stephen Mayer, Community Development Planner.

IV. REQUEST AND BACKGROUND

The applicant requests review and recommendation to rezone 6.7+/- acres. The applicant proposes to add this land to the existing business park in Licking County as a new zoning district with three subareas. This area will be known as Beech Interchange District subareas E, G, and H, and will be zoned Limited General Employment (L-GE) and Limited Office Campus District (L-OCD). The proposed limitation text meets the intent of the Strategic Plan’s office category by providing compatible general employment uses.

Subareas E and G are proposed to be rezoned to Limited Office Campus District (L-OCD) and contains the same list of permitted, conditional, and prohibited uses as the Winding Hollow Zoning District and the adjacent subareas from the original Business Park East zoning text.

Subarea H is proposed to be rezoned to Limited General Employment (L-GE) and contains the same list of permitted, conditional, and prohibited uses as the Harrison East Zoning District, and the Business Park East Innovation District Subareas known as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located. Other development standards are almost identical to the surrounding subareas.

II. SITE DESCRIPTION & USE

Subarea E consists of two parcels totaling 2.6 +/- acres. One parcel is annexed into the city (via O-30-2002) and zoned AG Agricultural. The second parcel is being annexed into the city and is in its 60-day annexation petition holding period. Council is anticipated to have a first reading for the annexation on November 1, 2016. The site is located on the south side of Lucille Lynd Road and generally west of the Lucille Lynd Road and Worthington Road intersection. Surrounding uses include agricultural and residential. The east, west, and south sides of the property are zoned OCD.

Subarea G is 3.308 acres, annexed into the city (via O-30-2002), and zoned AG Agricultural. The parcel is vacant and located south of State Route 161 and on the north side of Lucille Lynd Road near the road's western extent at the cul-de-sac. Surrounding land uses other undeveloped land zoned OCD and Emerald Storage to the south, and agricultural and residential uses to the east.

Subarea H is 0.735 acres, annexed into the city (via O-13-2015), and zoned AG Agricultural. The parcel is undeveloped and abutting Beech Road to the west, Worthington Road to the north, a park-and-ride facility to the east, and undeveloped land zoned L-GE to the south.

III. PLAN REVIEW

Planning Commission's review authority of a zoning amendment application is found under C.O. Chapters 1107.02 and 1159.09. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, proposed zoning text, and the codified ordinances. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

Per Codified Ordinance Chapter 1111.06 in deciding on the change, the Planning Commission shall consider, among other things, the following elements of the case:

- (a) Adjacent land use.
- (b) The relationship of topography to the use intended or to its implications.
- (c) Access, traffic flow.
- (d) Adjacent zoning.
- (e) The correctness of the application for the type of change requested.
- (f) The relationship of the use requested to the public health, safety, or general welfare.
- (g) The relationship of the area requested to the area to be used.
- (h) The impact of the proposed use on the local school district(s).

A. New Albany Strategic Plan

The 2014 New Albany Strategic Plan lists the following development standards for the Office District:

1. Office buildings should not exceed five stories in height.
2. The design of office buildings should include four-sided architecture in order to address multiple frontages when present
3. On-Street parking is discouraged.

4. Primary parking should be located behind buildings and not between the primary street and the buildings.
5. Parking areas should be screened from view.
6. Loading areas should be designed so they are not visible from the public right-of-way, or adjacent properties.
7. Sidewalks/leisure trails should be placed along both sides of all public road frontage and setback 10 feet from the street.
8. Common open spaces or green are encouraged and should be framed by buildings to create a “campus like” environment.
9. Appropriate screening should be installed as a buffer between the office district and adjacent residential. If mounding is necessary to achieve this the “reverse slope” type with a gradual slope side toward the right-of-way is preferred.
10. Street trees should be provided at no greater a distance than 40 feet on center.
11. Individual uses should be limited in size, acreage, and maximum lot coverage.
12. No freeway/pole signs are allowed.
13. Heavy landscaping is necessary to buffer these uses from adjacent residential areas.
14. A 200 foot buffer should be provided along State Route 161.
15. Structures must use high quality building materials and incorporate detailed, four sided architecture.
16. When double fronting sites exist, office buildings should address both frontages.
17. Plan office buildings within the context of the area, not just the site, including building heights within development parcels.
18. Sites with multiple buildings should be well organized and clustered if possible.
19. All office developments should employ shared parking or be designed to accommodate it.
20. All office developments should plan for regional stormwater management.
21. Office developments should provide connections to the regional trail system.
22. Green building and site design practices are encouraged.
23. Innovative an iconic architecture is encouraged for office buildings.

B. Use, Site and Layout

1. The proposed zoning text is a limitation text. A limitation text can only establish more restrictive requirements than the zoning code.

Subarea E

2. Subarea E is located on the south side of Lucille Lynd Road and generally west of the Lucille Lynd Road and Worthington Road intersection. Surrounding uses include agricultural and residential. The east, west, and south sides of the property are zoned OCD.
3. The applicant proposes to rezone this subarea Limited Office Campus District (L-OCD). This is the same permitted uses contained in the adjacent zoning districts to the west, south, and east.
4. The limitation text allows the permitted and condition uses found in C.O. 1144.02 and 1144.03, provided the conditional uses are approved in accordance with C.O. Chapter 1115 by the Planning Commission. The Office Campus District permits the following uses:

- (a) Administrative business and professional offices as specified in C.O. Sections 1143.02(a), (b), and (c).
 - (b) General offices and general office buildings designed for leased space, including but not limited to, operational, administrative and executive offices for personnel engaged in general administration, operations, purchasing, accounting, telemarketing, credit card processing, bank processing, other administrative processing, and other similar business activities in accordance with C.O. Section 1127.02(e) of the Planning and Zoning Code.
 - (c) Data Centers.
5. The applicant proposes to require a minimum 25 foot building and pavement setback from the right-of-way of Lucille Lynd Road.
 6. The applicant proposes to require a minimum pavement and building setback of 50 from all perimeter boundaries which are adjacent to property on which residential uses are permitted. The perimeter subarea setback for commercial properties is a minimum of 25 foot building and pavement.
 7. Due to the proximity of this site to the State Route 161/Beech Road and its location adjacent to commercially zoned land in the existing Licking County business park, the site appears to be most appropriate for commercial development.

Subarea G

8. Subarea G is 3.308 acres located south of State Route 161 and on the north side of Lucille Lynd Road near the road's western extent at the cul-de-sac. Surrounding land uses other undeveloped land zoned OCD and Emerald Storage to the south, and agricultural and residential uses to the east.
9. The applicant proposes to rezone this subarea Limited Office Campus District (L-OCD). This is the same permitted uses contained in the adjacent zoning districts to the west, south, and east.
10. The limitation text allows the permitted and condition uses found in C.O. 1144.02 and 1144.03, provided the conditional uses are approved in accordance with C.O. Chapter 1115 by the Planning Commission. The Office Campus District permits the following uses:
 - (a) Administrative business and professional offices as specified in C.O. Sections 1143.02(a), (b), and (c).
 - (b) General offices and general office buildings designed for leased space, including but not limited to, operational, administrative and executive offices for personnel engaged in general administration, operations, purchasing, accounting, telemarketing, credit card processing, bank processing, other administrative processing, and other similar business activities in accordance with C.O. Section 1127.02(e) of the Planning and Zoning Code.
 - (c) Data Centers.
11. The applicant proposes to require a minimum 25 foot building and pavement setback from the right-of-way of Lucille Lynd Road.
12. The applicant proposes to require a minimum pavement and building setback of 50 from all perimeter boundaries which are adjacent to property on which

- residential uses are permitted. The perimeter subarea setback for commercial properties is a minimum of 25 foot building and pavement.
13. Due to the proximity of this site to the State Route 161/Beech Road and its location adjacent to commercially zoned land in the existing Licking County business park, the site appears to be most appropriate for commercial development.

Subarea H

14. Subarea H is 0.735 acres and abuts Beech Road to the west, Worthington Road to the north, a park-and-ride facility to the east, and undeveloped land zoned L-GE to the south.
15. The subarea contains the same list of permitted, conditional, and prohibited uses as Business Park East Innovation District.
16. The limitation text will allow for general office activities, warehouse & distribution, off-premises signs, data centers, and research & production uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
17. Conditional uses include car fleet and truck fleet parking, and manufacturing and production.
18. Prohibited uses include personal service and retail product sales, industrial product sales and services, mini-warehouses, vehicle services, radio/television broadcast facilities, and sexually oriented business.
19. The applicant proposes the following setbacks:
 1. Beech Road: a minimum pavement setback of 50 feet and minimum building setback of 100 feet for non-office uses and a minimum pavement and building setback of 50 feet for office uses.
 2. Worthington Road: minimum pavement setback of 25 feet and minimum building setback of 50 feet from the right-of-way.
 3. Perimeter boundaries: require a minimum pavement and building setback of 50 from all perimeter boundaries which are adjacent to property on which residential uses are permitted. The text states “otherwise the minimum pavement and the building setback shall be 50 feet from such perimeter boundaries. Staff recommends the text is modified to read “The perimeter subarea setback for commercial properties is a minimum of 25 foot building and pavement.”
20. Due to the proximity of this site to the State Route 161/Beech Road and its location adjacent to commercially zoned land in the existing Licking County business park, the site appears to be most appropriate for commercial development.

C. Access, Loading, Parking

1. All of the subareas state the number, location, and spacing of curbcuts on public right-of-way shall be determined and approved by the city manager or their designee in consultation with the developer at the time that a certificate of appropriateness is issued for a project in this subarea.
2. All of the subareas require the developer to work with city staff to determine the appropriate timing and phasing of all required street improvements.

3. The text does not contain right-of-way dedications along Lucille Lynd Road, Worthington Road or any other road within all of the subareas, but the city engineer comments the city already has all of the right-of-way it needs in the subject areas.
4. All of the subareas require an internal pedestrian circulation system to be created so that a pedestrian using a public sidewalk or leisure trail along a public street can access the adjacent building through their parking lots with markings, crosswalks, etc.

D. Architectural Standards

1. The maximum building height is 65 feet for structures in subarea E.
2. The proposed rezoning seeks to implement many of the same or improved standards and limitations set forth in the New Albany Architectural Design Guidelines and Requirements (Chapter 1157).
3. The same architectural requirements as the existing Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located are proposed for subarea E.
4. The City's Design Guidelines and Requirements do not provide architectural standards for warehouse and distribution type facilities. Due to the inherent size and nature of these facilities careful attention must be paid to their design to ensure they are appropriately integrated into the rest of the business park. The Beech Interchange subarea H limitation text, where the General Employment District uses are permitted, includes the same specific design requirements for uses not governed by the DGRs as those in the other subareas of the Business Park East Innovation District, which will ensure the quality design of these buildings.
5. Subareas E and G of the limitation text, where the Office Campus District uses are permitted, are silent on architectural standards, therefore the New Albany Architectural Design Guidelines and Requirements (DGRs) (Chapter 1157) shall apply. The DGRs contain architectural standards for office buildings.
6. All of the subareas require complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment.

D. Parkland, Buffering, Landscaping, Open Space, Screening

1. Maximum lot coverage for this subarea is 75% for subarea E, G and H. This is consistent with the surrounding subareas.
2. Subarea H requires Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas,

provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property. Staff recommends this requirement is added to subareas E and G.

3. The zoning text's subarea A requires additional landscaping Beech Road:
 - a. Landscaping within the pavement setback along Beech Road shall be coordinated and consistent throughout this zoning district.
 - b. A minimum of one (1) deciduous trees shall be installed for every 25 feet of frontage on the public right-of-way in addition to street trees. Such trees shall be planted in random locations (i.e., not in rows). The text allows the material to be reduced to a minimum caliper of 1 inch to gain additional material similar to what is done in the Personal Care and Beauty Campus.
 - c. Mounding shall be permitted but not required. When utilized, mounding shall have a minimum height of 3 feet and a maximum height of 12 feet. The slope of mounds shall not exceed 6:1.
4. Street trees will be located an average of 30 feet on center throughout the development for all the subareas.

E. Lighting & Signage

1. No signage is proposed at this time. Per the text all signage shall meet the standards set forth in Codified Ordinance 1169 (City Sign Code).
2. All lighting shall be cut-off type fixtures and down cast to minimize light spilling beyond the boundaries of the site. The maximum height is 30 feet.
3. The zoning text requires lighting details to be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

F. Other Considerations

1. The applicant has submitted a school impact statement which states the proposed L-GE zoning will result in fewer children in the school district and add significant value to the land that will be a substantial financial benefit to the school district.

IV. ENGINEER'S COMMENTS

1. All access locations are subject to criteria contained in the current version of the ODOT State Highway Access Management Manual.

V. RECOMMENDATION

Basis for Approval:

The proposed rezoning is generally consistent with the principles of commercial development in the Strategic Plan and the existing business park in Licking County. Additional restrictions and commitments have been provided that are above what the base zoning code would require.

1. The rezoning will allow for a more comprehensive planned redevelopment of the area and will ensure compatibility between uses (1111.06(a)).

2. The L-GE and L-OCD rezoning application is an appropriate application for the request(1111.06(e)).
3. The overall effect of the development advances and benefits the general welfare of the community (1111.06(f)).
4. The proposed rezoning will allow for the development of businesses that will generate revenue for the school district while eliminating residential units having a positive impact on the school district (1111.06(h)).

Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval.

VI. ACTION

Suggested Motion for ZC-81-2016:

To recommend approval to Council of Zoning Change application ZC-81-2016 based on the findings in the staff report with following condition of approval (conditions may be added)

1. Subarea H text is modified to read “The perimeter subarea setback for commercial properties is a minimum of 25 foot building and pavement.”
2. Every subarea in the text requires Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.

Approximate Site Locations:

