



Planning Commission

Meeting Minutes

December 18, 2017

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 7:02 p.m.

Neil Kirby	Present
Brad Shockey	Present
David Wallace	Present (arrived 7:06pm)
Kasey Kist	Present
Hans Schell	Present
Sloan Spalding (council liaison)	Absent

Staff members present: Stephen Mayer, Planner; Jackie Russell, Clerk; Mitch Banchefsky, City Attorney and Pam Hickok, Clerk.

Moved by Mr. Kist, seconded by Mr. Schell to approve the November 20, 2018 minutes. Upon roll call vote: Mr. Kirby, yea; Mr. Shockey, yea; Mr. Kist, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

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

Ms. Russell stated none.

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

Mr. Kirby's invited the public to speak on non-agenda related items.

Moved by Mr. Kist, seconded by Mr. Kirby to accept into the record the staff reports and related documents. Upon roll call vote: Mr. Kirby, yea; Mr. Kist, yea; Mr. Shockey, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

CU-69-2017

Conditional use to allow general office activities use at 5780 Zarley Street (PID: 222-000267)

Applicant: Ralph Fallon Builder c/o Ralph Fallon

Ms. Russell presented the staff report.

Mr. Ralph Fallon stated that the building was permitted as it exists currently with office space.

Mr. Mitch Banchefsky asked the chairman to swear in the witness.

Mr. Kirby sworn in the Mr. Fallon.

Mr. Fallon stated I have a building that was permitted and part of that process was zoning review. I guess I'm wondering is it approved through zoning during that process?

Mr. Mayer asked if that was for interior modifications.

Mr. Fallon stated that it was a formal set of plans for a cabinetry shop that used the space as office use.

Mr. Mayer stated that I know zoning reviews anytime construction is being done.

Mr. Fallon stated that his concern is that every time he gets a new tenant he will be in front of this board for something that was already approved as office space. It seems inconsistent to need to come to this board when this building has been permitted and zoned for office space.

Mr. Mayer stated that the staff recommended condition could be changed to read a "different type of business occupies the space". Planning Commission can evaluate the entire building for office use if they would like.

Mr. Kirby asked if the intent is to increase the office space.

Mr. Fallon stated no. No changing of the space or walls. If it's already there and approved then do I need to come back with every new tenant.

Mr. Shockey stated yes.

Mr. Fallon asked if that is negating the original zoning approval.

Mr. Shockey stated that the zoning has nothing to do. The zoning for everything in the Zarley industrial park requires a conditional use for office only in any of these buildings. I have been a long time advocate to this board and staff that it is cumbersome that owners of buildings in Zarley need to go through a 60 day process to rent a space used for office. It has never been changed. I don't know how to petition to change the zoning language. This property is zoned for warehouse and industrial and office use only is a conditional use. It doesn't matter what was in there before, whenever you apply for an occupancy permit through the staff you need to say what the use of the tenant will be. Every time a new tenant that is only office use you will need a conditional use.

Mr. Fallon asked if they had some storage space would that change the designation.

Mr. Shockey stated that it is the business use not just the space they are using.

Mr. Fallon stated that if I say the entire building is office then I would understand the concern but part of this building is warehouse.

Mr. Kirby stated that the zoning is for the building and each user.

Mr. Fallon stated then it that two zoning codes. I have a zoning code for the building and the tenant?

Mr. Kirby stated that the zoning code is for the property based on the use. If the primary use is warehouse which has some ancillary office use. If it is used as an office alone then it requires a conditional use. The conditional use permit may or may not contain language that has an expiration.

Mr. Wallace stated that he could re-zone the property to something that allows office use. He purchased property that has a specific zoning classification and that it what it is. He could change that if he wanted.

Mr. Kirby stated that he could request to have it changed.

Mr. Wallace stated that he could petition to change the permitted uses.

Mr. Schell asked how long the lease is for the security company.

Mr. Fallon stated one year. He continued by asking what constitutes warehouse.

Mr. Kirby asked staff for definition and permitted uses of LI district.

Mr. Mayer stated that LI has permitted uses that include industrial product sales; industrial services; manufacturing and production; warehouse and distribution; research and production; vehicle services; radio/television broadcast facilities; off-premises signs; religious facilities; and park and ride facilities. Conditional uses includes general offices, personal services, retail product sales and services; and car fleet and truck fleet parking. Each of those has a definition with additional examples to further define what they include.

Mr. Kirby stated that there are three options. You ask for conditional use for each tenant; petition to have this property rezoned; or the tenant may be better served in another area.

Mr. Shockey stated that conditional use is the easier of those options.

Mr. Fallon stated that no office is allowed under the current zoning.

Mr. Shockey stated that is not correct. Office is allowed under the current zoning with conditional use approval, which is what you have applied for.

Mr. Kirby stated that office is also allowed as an ancillary use to a permitted use.

Mr. Shockey stated that I feel that a limited industrial zoning district should not require conditional use for office use in these small buildings for tenants that will be there for a year. The frustration for building owners is the process that takes 30-60-90 day process and paperwork. Time sensitive process. This company is already in the Zarley Industrial park and I believe they already have a conditional use when they moved in.

Mr. Mayer stated that we couldn't find a conditional use for their previous address.

Mr. Shockey stated that it would seem reasonable because not everyone has distribution or rack storage.

Mr. Wallace asked staff what it would take to change the zoning code to include office use as a permitted use.

Mr. Mayer stated that we could rezone Zarley Park to a GE, general employment but then we would be taking away some of the industrial uses. We could consider updating the LI code to include office as permitted use. Staff is concerned that this is the only LI District in New Albany. We have seen a lot of small businesses move into this area.

Mr. Kirby stated that is the issue. Where does a small business owner go for modestly priced office? Zarley is the only place.

Mr. Wallace stated that on the flip side, where does the LI go if we rezoned the area.

Mr. Shockey stated that I think we should change the permitted use to include office use.

Mr. Mayer stated that staff can look into that. The other option this board has is to approve the conditional use without a condition. That would allow the conditional use to run with the property in that limited space and office tenants could change without a conditional use.

Mr. Kirby stated that we could allow for a longer time frame.

Mr. Mayer stated that we have done it two ways including either if it changes use or business or for the model homes we put a specific time frame so that we can re-evaluate.

Mr. Kirby stated that we would want to re-evaluate every 3 tenants or if the use changed. That would allow the city to retain control so that Zarley doesn't become all office use and still allows the landlords to have multiple tenants without having to come in every year.

Mr. Fallon stated that a long term solution would be preferable. The public mini-warehouse is a permitted use, so could I rent a mini warehouse with an office attached.

Mr. Shockey asked what he considers a mini warehouse.

Mr. Fallon stated that he didn't know the definition.

Mr. Mayer stated that under warehouse and distribution - public mini-warehouses are listed as an example. That would be the individual doors small spaces for storage.

Mr. Kirby stated that if there is a permitted use in the back half of the building, then can any office use be permitted or do the users need to directly related.

Mr. Mayer stated that the users need to be tied.

Mr. Schell asked how long Mr. Fallon has owned the building.

Mr. Fallon stated about six months.

Mr. Schell asked when the last time a tenant was in the space.

Mr. Fallon stated that the Callard Company was there for a few years prior to my purchase. It's been a multi-tenant building.

Mr. Kist asked if the space has a demised wall.

Mr. Fallon stated that the front is a large office area, the back right half is another office area and the back left half is warehouse.

Mr. Kist asked how many tenants are currently in the building.

Mr. Fallon stated just two currently. If I gave each tenant some warehouse space would this process be required.

Mr. Shockey stated that if the tenant had a legitimate use for the warehouse than it wouldn't be an office only component.

Mr. Mayer stated that warehousing must be the primary use. Office use must be the accessory use.

Mr. Shockey stated that it is a small code change that we could recommend.

Mr. Kirby stated that Council needs to approve a code change.

Mr. Shockey stated that it is right because that is what the code says. We have discussed this issue many times but it never goes any further.

Mr. Wallace stated that you need to be concerned with unintended consequences. This could become office very quickly.

Mr. Shockey stated that was the biggest concern; they were afraid that the entire area could become office.

Mr. Kirby asked how many conditional uses are in Zarley compared to the total number of units.

Mr. Mayer stated that we found two conditional uses for office. We don't have that total number of units in comparison to the number of conditional use at this time.

Mr. Kirby stated that he would ask that staff provides the total lots, total office, total personal use, for all future conditional uses applications in Zarley.

Mr. Fallon stated that the primary concern is tonight's request. Secondary issue is the rest of my building which was permitted with office.

Mr. Wallace stated that if you have warehouse space with an office, it is permitted. You can't have an office use with a small closet and call it warehousing.

Mr. Fallon stated that I couldn't meet the criteria with my current building as it exists today. My building is unrentable as it exist today.

Mr. Wallace stated that we should focus on the front office space which is tonight's application.

Mr. Kist stated that it is not unrentable; it's just cumbersome. If we grant conditional use with the staff condition, the conditional use would expire when New Albany Security moved out.

Mr. Wallace stated that he believes that it should be for a set amount of time.

Mr. Kirby suggested that if it goes without being used for office for a certain period of time.

Mr. Shockey stated that his conditional use is tied to the applicant / tenant.

Mr. Banchefsky stated that it is tied to the use.

Mr. Schell stated that if a new tenant moves in and uses it for office then it continues on.

Mr. Shockey stated that if you look at the criteria, it's a number of employees, how much parking, hours of operation, it's a lot of things and that changes from person to person.

Mr. Wallace asked staff if the conditional use is tied to the user or the space.

Mr. Banchefsky stated that it would be tied to the space.

Mr. Wallace stated that the tenant could change as long as the use is approved. Why couldn't we approve this for a specific timeframe?

Mr. Mayer stated that the conditions on this application could change if it is tied to the use or the user.

Mr. Wallace stated that the applicant is dictating the use that is desired but the use is taking place inside of the property. If we allow it to stay then we need a period of time.

Mr. Kirby verified that we can't have a condition that it just a specific timeframe because the given user could exceed that time period.

Mr. Banchefsky stated yes, you don't want a thriving business to have to come back.

Mr. Wallace stated that seems to be practicality and not legality. Your saying we don't want to have them do that but why can't they.

Mr. Banchefsky stated that we still need to be business friendly.

Mr. Kirby stated that legally we could have a set time period but practically we don't want to do that because it's not business friendly.

Mr. Wallace stated that we are talking about solving a practical problem which will create problems in another way.

Mr. Banchefsky stated that if you approve it for use then what happens when the next user moves in with 15x more employees.

Mr. Shockey stated that this is not a single part approval. This is a two part equation. You need to get an occupancy permit which needs zoning approval. If this was granted a ten year conditional use for office use then the next office

tenant will not need to get a conditional use but will still need an occupancy permit approved by building and zoning.

Mr. Kirby asked if the next tenant meets the same criteria then they would get a permit, if they don't meet the criteria then they would need to come back to this board.

Mr. Shockey stated that criteria is not the right word. Staff reviews parking as part of the occupancy permit.

Mr. Wallace stated that is the problem, we are reviewing the criteria for this specific tenant but want to approve it for future tenants.

Mr. Shockey stated that the city staff doesn't need to approve an occupancy certificate if they don't meet parking.

Mr. Wallace confirmed that you're stating there is a failsafe with the occupancy or by zoning enforcement.

Mr. Mayer stated that with the occupancy certificate we would verify that they meet the zoning code.

Mr. Schell asked for the tenant change process.

Mr. Mayer responded.

Mr. Wallace asked if the tenant added a call center and they had more employees than parking.

Mr. Mayer stated that the parking code for office is based on square footage.

Mr. Fallon asked if the existing office space can stay office space and the existing warehouse space stay warehouse.

Mr. Kirby stated that we are only looking at the space submitted for tonight.

Discussion regarding the condition language.

Mr. Kirby stated that the language will be "when the use changes the conditional use will expire".

Mr. Wallace stated that office use is generic.

Mr. Mayer stated that city code defines general office.

Mr. Shockey asked the square footage of this space.

Mr. Fallon stated that it is about 2300 sf. (purple area).

Mr. Banchefsky stated that leaves the question of how much office do you want.

Mr. Kirby stated that the next application I want to see all of the requested data so we can decide how far from light industrial we want to go.

Mr. Wallace confirmed that if we approve this conditional use without a time limit then we are adding office as a permitted use.

Mr. Kirby stated yes for this area in the building. He continued that many of the original conditional uses were approved without conditions but we thought that CU that run forever may not be a good idea so we started adding conditions.

Mr. Wallace stated that was so that we could control the use. So we are losing control of this use and will be office forever.

Mr. Shockey stated that this part of the building roof height is not tall enough to be warehouse. It was built as office.

Mr. Kirby asked staff if a single user rents the entire building for primary use being warehouse and don't need the CU. Will the CU go away?

Mr. Banchefsky stated that the CU would move out of existence at that time.

Mr. Fallon stated that the conditions are left as then exist now is the easiest from the landlord standpoint.

Mr. Wallace asked what the condition will be.

Mr. Kirby stated that it will stay with the property until it has a different use.

Mr. Wallace confirmed that will allow new tenants.

Mr. Schell asked if we approve this tonight and one next year; will we be able to deny the next if we decide that it is becoming too much office.

Mr. Mayer stated that the conditional use section allows you to evaluate each application on its merits.

Mr. Kirby stated that if we have another one in this area and we don't have the usage data I will request that it is tabled until we receive it so we know where we are going with Zarley Park. If Council has any input with Zarley; guidance would be helpful.

Mr. Kist moved to approve CU-69-17 subject to the following conditions:

1. That conditional use permit will become void if the property should change use

2. The conditional use is valid for the square footage presented in the application, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Shockey, yea; Mr. Wallace, no; Mr. Kist, yea; Mr. Schell, yea. Yea, 4; Nay, 1; Abstain, 0. Motion passed by a 4-1 vote.

Mr. Wallace stated that he believes that there will be unintended consequences that could be potentially problematic and I think we are creating a permitted use for this property and I don't think it is appropriate.

Mr. Fallon stated that he will work with staff on the other office section.

ZC-74-2017 Zoning Change

Rezoning 72.25+/- acres from Comprehensive Planned Unit Development (C-PUD) to Infill Planned Unit Development (I-PUD) for an area known as the Beech/161 Northwest Quad Zoning District located south of Smith's Mill Road and west of Beech Road (PID: 093-107046-00.000 and 093-106512-00.000).

Applicant: MBJ Holdings c/o Aaron L Underhill, Esq.

Mr. Kirby verified that this application has requested to be tabled.

Ms. Russell confirmed yes, until the next meeting.

Mr. Kirby moved to table ZC-74-17 until next regularly scheduled meeting, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Shockey, yea; Mr. Wallace, yea; Mr. Kist, yea; Mr. Schell, yea. Yea, 5; Nay, 0; Abstain, 0. Motion 5-0 by a 5-0 vote.

Mr. Kirby stated that he wants to see the usage numbers and the conditional use numbers. Want to know how much light industrial we currently have in Zarley with types of uses.

Mr. Mayer clarified that he wants the square footage of retail space, industrial space, personal services, and office

Mr. Kirby stated that we should start with number of lots and number of users and the breakout of users.

Mr. Wallace stated that no changes to the minutes and apologized for being late.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 8:20 p.m.

Submitted by Pam Hickok

APPENDIX



Planning Commission Staff Report December 18, 2017 Meeting

NEW ALBANY SECURITY OFFICE CONDITIONAL USE

LOCATION: 5780 Zarley Street (PID: 222-000267)
APPLICANT: Ralph Fallon Builders
REQUEST: Conditional Use for Office Use
ZONING: LI [Limited Industrial District]
APPLICATION: CU-69-17

Review based on: Application materials received October 2 and 16, 2017.

Staff report completed by Jackie Russell, Community Development Clerk.

I. REQUEST AND BACKGROUND

The applicant is seeking approval to allow a new office at 5780 Zarley Street for New Albany Security, who is currently located within the Zarley Industrial Park, which is a conditional use according Codified Ordinance Chapter 1153.03(b)(2). General Office Uses are a conditional use within the Limited Industrial Zoning District. This proposed business employs a total of 20 employees, but typically will have 5-6 employees at the office at any given time throughout the day. New Albany Security is a company which provides security and transport for clientele in New Albany.

II. SITE DESCRIPTION & USE

The site is located on the seventh lot south of U.S. 62 on the eastern side of Zarley Street within the Zarley Industrial Park. Currently the site has an existing structure with parking areas in the front and on the east side. The site is bordered by another business to the north, Zarley Street on the west, and the Smith's Mill Office Park to the east, and Via Tessoro to the south.

The site is zoned LI- Limited Industrial. Permitted uses within LI district include industrial product sales, industrial service, manufacturing and production, warehouse and distribution, research and production, and vehicle service. Conditional uses within the LI district include general office activities, personal service, and retail product sales and service. Adjacent land uses are generally small scale office and warehouse uses. Previously, conditional uses were approved for personal services and retail use in this area.

III. EVALUATION

The general standards for Conditional Uses are contained in Codified Ordinance Section 1115.03. The Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location meets all of the following requirements:

- (a) *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance.*

Uses:

- The proposed use will be for an office. The applicant indicates that there is a total of an estimated 20 employees, and will typically have 5-6 employees at the office per shift.
- The proposed office hours are 8am-5pm. The applicant did not indicated what days a week. The Planning Commission should confirm what days they will be working.

Architecture:

- The applicant is proposing to move into the existing building on the site. There are no exterior building or site modifications proposed as part of the use.
- According to the Franklin County Auditor the building was constructed in 2000 and is 10,072 square feet.

Parking:

- According to the site plan provided by the applicant the facility currently has 25 parking spaces.
- Per Codified Ordinance 1167.05(d)(17) the required parking for professional, administrative and business offices is one for each 250 square feet of gross floor area. The applicant has not indicated to staff how many square feet of the building will be occupied by this tenant, therefore staff cannot fully evaluate the parking for the applicant. Staff has not received any information on the use of the remainder of the building.
- The Planning Commission should clarify the square footage the applicant will be occupying and evaluate the parking for the space.

Signage:

- The applicant has not proposed any signage as this time. All signage must meet the requirements found in Codified Ordinance Section 1169.

Landscaping:

- The applicant has not proposed any new landscaping at this time.

- (b) *The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*

- The entire lot is approximately one (1) acre, but the area for this conditional use is only a portion of the existing building.

- The neighboring properties and uses are generally personal services, office and warehouse uses, and retail.
 - Other approved conditional uses include general office activities, personal service, retail, and office/warehouse conditional uses.
- (c) *The use will not be hazardous to existing or future neighboring uses.*
- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the LI District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.
 - It does not appear the use will be hazardous to existing and future neighbors. According to the applicant, the business has been operating within the Zarley Industrial Park at a different building. Staff is not aware of any complaints associated with the business.
- (d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- Sewer and water service are available in this location.
 - The proposed commercial development will produce no new students for the school district.
- (e) *The proposed use will not be detrimental to the economic welfare of the community.*
- The proposed use will generate tax income from the jobs.
- (f) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*
- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the LI District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
- The business is proposed to be located within the Zarley Industrial Park. This site is the seventh lot on the left when entering the Industrial Park from U.S. 62.
 - The business already exists in the Zarley Industrial Park, so the traffic should be the same or similar as what it is now.
 - The intersection of Zarley Street and U.S. 62 was modified to prohibit left hand turns during certain hours. An EMH&T traffic study, dated April 18, 2012, submitted with the JD Equipment (CU-02-12) application confirms turning movements must be limited at Zarley Street and U.S. 62. This EMH&T traffic analysis confirms and reinforces the need to alleviate these problems. Turning movements are currently restricted during certain hours.

- A road connection to Forest Drive was constructed by the city in 2016 to alleviate these problems by providing an additional entrance into the Zarley Industrial Park.

IV. RECOMMENDATION

The purpose and function of the Zarley Industrial Park has changed significantly since 2012. The Planning Commission has approved eight conditional uses for personal service, retail product sales and general office uses. According to city records there has been up to 14 businesses who received approved conditional uses in the industrial park. The number of tenant spaces in the industrial park is attractive to small businesses. The city of New Albany seeks to encourage small business growth within the city, and by the sheer number of approved applications the industrial park is beginning to function more as a business park. Staff is supportive of this continued evolution of the Zarley Industrial Park because it encourages small business growth within the city limits. The city has invested in the area via the new road segment, Via Tessoro. However, it is important to preserve the Limited Industrial zoning in this area for the possibility of a future need to attract more industrial type uses here.

The overall proposal appears to be generally consistent with the code requirements for conditional uses. There are currently several other companies with approved conditional uses at the Zarley Industrial Park. New Albany Security has been located within the Zarley Industrial Park for ten years according to the applicant, but has decided to move locations. The applicant is projecting a total of 20 employees, which will be at the office in groups of 5 or 6. The conditional use of the does not appear to negatively affect the schools, nor will it create any dangerous, injurious, noxious or other objectionable impacts on the land. However, staff recommends the Planning Commission confirm with the applicant is sufficient parking is provided for this tenant and the current and future uses of the remainder of the building.

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

V. ACTION

The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission for approval.

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

Move to approve application CU-69-17 to allow office use at 5780 Zarley Street with the following conditions:

- 1) The conditional use permit will become void if the property should become vacant or a different business occupies this suite.



Source: Bing Maps



Memorandum

TO: Planning Commission

FROM: Community Development Department

DATE: December 18, 2017

RE: ZC-74-2017 Zoning Change Table Request

Since the publishing of the Planning Commission's agenda, the applicant for the Beech/161 Northwest Quad Zoning District rezoning application has requested this item be tabled until the regularly scheduled January 17, 2018 meeting. Therefore, no staff reports or other material concerning this application will be distributed.