



Planning Commission

Meeting Minutes

February 21, 2018

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 7:00 p.m.

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| Neil Kirby | Present |
| Brad Shockey | Absent |
| David Wallace | Present |
| Kasey Kist | Present |
| Hans Schell | Present |
| Sloan Spalding (council liaison) | Absent |

Staff members present: Stephen Mayer, Development Services Manager; Jackie Russell, Development Services Coordinator; Ed Ferris, City Engineer; Mitch Banchefsky, City Attorney and Pam Hickok, Clerk.

Moved by Mr. Wallace, seconded by Mr. Kist to approve the January 17, 2017 minutes. Upon roll call vote: Mr. Kirby, yea Mr. Wallace, yea; Mr. Schell, abstain; Mr. Kist, yes. Yea, 3; Nay, 0; Abstain, 1. Motion passed by a 3-0

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

ZC-84-2017 Zoning Change

Rezoning 35.0 ± acres of land located generally located east of State Route 605/New Albany-Condit Road, south of New Albany Road East, and north of Central College Road for an area to be known as "Yerke West Zoning District" from its current zoning of "C-PUD"

Comprehensive Planned Unit Development to "I-PUD" Infill Planned Unit Development (PID: 222-001972)

Applicant: Epcon Communities c/o Aaron Underhill Esq

Mr. Stephen Mayer presented the staff report.

Mr. Ed Ferris presented the engineering report.

Mr. Kirby asked staff in the staff report note C4 refers to Walnut Street.

Mr. Mayer stated that is an error. The applicant is dedicating 50 feet of right of way along S.R. 605 and all internal streets.

Mr. Kirby stated that in the staff report it states that it is popular in the 1990's.

Mr. Mayer stated that should read 1890's.

Mr. Aaron Underhill, Underhill & Hodge, is representing Epcon. This is a site that was zoned with the 1998 NACO PUD and has not received much interest. We think this would be a great transitional use. We have the dual units on the north edge and single family in the rest of the site. I will make some comparisons with the Nottingham project which is also a great project. The age restriction with federal law is very specific and if you meet those standards to receive the exception to the fair housing law, so you're not discriminating against families. Federal law requires at least one person over 55 years old in at least 80% of the units. We have decided with this project to have 100% of the units have an occupant 55 or older. The homes will range from low 300's to 500's. \$730,000 to the schools each year. In addition, Epcon has agreed to no permanent residents under age 21 will be permitted. We committed to this as long as it remains permissible under federal law. We have an independent opinion that current federal law allows this restriction. They will have a deed restrictions so it will be enforced by the HOA. The federal government can impose some very strict penalties if the rules are not followed. I feel comfortable that we have a system in place to enforce these restrictions. Notice on the site plan the connections that are being made in this subdivision. We also learned in the process that we want to front homes on the open space. The details of club house will be with the final development plan. Some things we have accomplished is that every homes will have the appearance of 1.5 stories and a front porch on every unit. We think these items mitigate the areas that we are deviating from the DGRs. Each home will have the opportunity for the side courtyard and the next door house will not be required to have any windows on that side.

Mr. Mayer provided the revised text to the board members.

Mr. Underhill explained the changes to the text including the phases of the project in relation to recording the deed restriction, side yard encroachment, court yard fencing, clarification of the 4-sided architecture, eliminate a reference to the garage scale, in ground spas are permitted in the courtyard area only and mailbox locations have not been determined. We are down to a few issues including the fence and screening of the courtyard and the foundation issue. We proposed that an exposed foundation of 6" or less could be painted to match the siding. Staff and the city architect stated that they would like it to be brick. We ask that the condition is modified to address at final development plan. Our concern is that this could cause a maintenance issue. These homes are lower to the ground and staff recommendation of taking the siding to the ground, we believe, would invalidate the warranty. We want to look for an alternative solution. The other item is condition 4, which is bringing units out of the housing bank, would like to propose to commit to finding an alternative solution acceptable to city staff and city attorney. This is an unusual situation because this would be the first time that units would have been taken out from a property that was never owned by NACO.

Mr. Kirby asked for public comment.

Ms. Taryn Tomaszewski, 6896 Jersey Drive, stated that she is one of the original owners on Jersey Drive. I want to tell you about the area and items to be mindful of. Jersey Drive that will connect to this new subdivision is a very short street that also connects to the New Albany Links. The neighborhood, Wentworth Crossing was just finished a little over a year ago. It's a young neighborhood, single family homes with lots of children which is evident by the bus stop. On our strip on Jersey Drive there are 34 children, two on the way and 22 children are under the age of six. Many of us have concerns with a connection to this new development which will connect to S.R. 605. We already have a great speeding problem on our street. The city is aware of the issue and the police department has used the speed trailer. We just want to bring to your attention and ask that you be mindful. If there is a way to reduce the speeding or to re-evaluate the connection to SR 605. Right now, New Albany Road East does connect to SR 605 and the speed limit is 35mph. There are limited residential units. Our neighborhood is the cut through and no one is mindful of the speed limit. As a mother of young children I wanted to make you aware of what you are dealing with on that small strip and the other streets in Wentworth also have many active children.

Ms. Mandy Aquilina, 6898 Jersey Drive, stated that she would like to echo what she said. We started an online petition and have 35 supporters in our neighborhood that are opposed to this connecting into Jersey Drive. If there is some way to mitigate how people access SR 605 from Jersey Drive so that we can limit the speeding which is already a concern. Most of the speeding is from the New Albany Links area down to Central College Road. If they have direct access to SR 605, we believe that it will get worse. Please be mindful of the connection to SR 605.

Mr. Dave Willis, 6700 Central College, stated that he lives on Central Collage and his mother owns two properties next to him. So we own about 50% of the tree line is along our properties. Will it be maintained? The gap in the trees is at my property from when they installed a sewer line. Will it really be a tree line or will it waste away?

Mr. Kirby stated that it is in the zoning text so there is enforcement option.

Mr. Mayer stated that it commits for the tree preservation but it does allow for utilities can take trees out for maintenance. Currently the text does not require tree replacement.

Mr. Willis stated that my mother has lived there 53 years and she doesn't want to see these homes. Also, when Wentworth Crossing was built, 6770 & 6800 Central College gained a lot of water. We want to make sure that no more water.

Mr. Kirby stated that he should go out and take pictures of the property right now. The ordinance states that you can't change your neighbor's drainage when you develop. You may be able to talk to the people that developed nearby and

Mr. Willis stated that his father did that and we did not have no result. We finally put in our own drainage this last summer in the back yard.

Mr. Kirby stated that he should document what he has right now. It makes it easier when you try to bring in enforcement.

Mr. Mayer stated that the next stage in this process would be the final development plan. If you received a letter for this meeting, that means that you are within 200 feet of this project and you will be notified of the final development plan meeting. Part of the final development plan is the preliminary grading and drainage plans.

Mr. Kirby asked if they can get a commitment for the tree preservation zone that the trees will be replaced unless prohibited.

Mr. Underhill stated yes, as long as we are not restricted due to a utility.

Mr. Schell asked for the typical square footage of the homes.

Mr. Ryan Braet, Epcon Communities, stated that they have committed to a minimum of 1600sf and up to 2700sf with the bonus room.

Mr. Schell asked why the twin single units on the northern boundary.

Mr. Braet stated that it was to provide a larger price point.

Mr. Schell asked if you could have the same number of units if they were single units.

Mr. Braet stated yes.

Mr. Kirby asked if the city is held liable if the federal law changes in regards to the age restrictions.

Mr. Mitch Banchefsky stated that the City is not liable.

Mr. Kist stated that the census every two years is the enforcement mechanism. Is that just the honor system? Where is the teeth, other than the census, if someone is in violation?

Mr. Underhill stated there is a very clear set of rules that the owner will need to review prior to occupying the home. They expose themselves personally. You're representing something to the federal government and if they were to come back on you a lot of damages would need to be paid. The text states that the report will be provided to the city.

Mr. Kist asked how that would be prosecuted.

Mr. Underhill stated that the HOA would prosecute but the city could also.

Mr. Kist asked how it is working in Texas development.

Mr. Joel Rhoades, Epcon Communities, the enforcement starts with the initial sale and it can be enforced by the HOA or like any other zoning violation.

Mr. Kist asked if language exist that defines a resident.

Mr. Rhoades stated correct.

Mr. Kirby stated that text says downcast lighting and pictures shows an acorn lighting.

Mr. Underhill stated that if it is in conflict we commit to the downcast lighting.

Mr. Kist stated that we are already over density and I know that we have the mailbox issue that will probably be at the club house. By the time we construct the club house and add the mailboxes you will lose some green space and increase the density number. Is there way to address the density number?

Mr. Underhill stated that the club house about 2800sf.

Mr. Kist asked if parking spaces will be added.

Mr. Braet stated that we may have 8-12 parking spaces. Most residents will walk. Will have four parking spaces at each home.

Mr. Kirby asked about on street parking.

Mr. Braet stated one side of street parking.

Mr. Kirby asked if we have room to fit parking on both sides of the street in the 50 feet of right of way.

Mr. Mayer stated yes.

Mr. Kirby stated that around the central green you may want parking on both sides.

Mr. Underhill stated that we have about 3.5 acres of green space. But will look for solutions to minimize having to install more parking. There will be 105 units.

Mr. Kist stated that this is a smaller community but still have the parties and events in the club house.

Mr. Kirby asked if the HOA is responsible to clear sidewalks.

Mr. Braet stated yes.

Mr. Kirby asked if the new text removes the blank back walls.

Mr. Mayer responded yes, the staff report states that minimum architecture required on the elevation.

Mr. Kirby stated that some elevations have the high placed windows. Is that something that could be included but maintain the privacy?

Mr. Rhoades stated that we could have transom windows on the blank elevation. Those are options.

Mr. Kirby asked staff if we could meet half way by using the transom windows instead of blank walls.

Mr. Mayer stated that this is a much better site plan that reduces the amount of side yards along public streets. The side elevations that are along the public street will have a courtyard and fencing for screening. The DGR always encourage 4-sided architecture however, these homes are only about 10 feet apart from each other. We feel that in case it does seem reasonable due to the proximity of these homes and the desire of privacy.

Mr. Kirby asked about the back fence.

Mr. Braet stated that between each home is a 6ft privacy fence from home to home in the back and in the front of the home is a black typical fence. (explained using the site plan and pictures)

Mr. Kirby stated that you will have a 30' grass alley.

Mr. Rhoades stated that there is a gate in the fence.

Mr. Kirby asked for the height of the front fence.

Mr. Braet stated that a black metal fence across the front of the courtyard.

Mr. Underhill stated that would like comments from the board in regards to the height of the rear fence and we have the requirement of 75% opacity on the front. If we do the decorative fence, even with landscaping, we worry about getting the opacity.

Mr. Kirby stated that in the front yes and use the depth of the main house as the visual buffer. The dark fence with a gate. Asked for height.

Mr. Braet stated 4 feet.

Discussions about fencing

Mr. Wallace clarified that looking at the rendering we would have a mirror image on the other side. Used the

Mr. Braet stated that we will align the houses in the back.

Mr. Wallace asked if a homeowner wants to have access to the back yard and move the rear fence, is that an option?

Mr. Braet stated that the intent is that all of the private outdoor space is in the courtyard. The areas outside of the courtyard would be considered open spaces that the homeowner cannot add any improvements.

Mr. Wallace stated that looking at the homes to the north and south don't abut to any homes. Will the alignment stay the same? These homes will be looking at the fence along with some architectural view of the home.

Mr. Underhill stated that the north side has a 30 foot setback and 50 foot setback on the south side.

Mr. Kirby asked if there is a setback for the front fence in the text.

Mr. Mayer stated that we could work with the applicant and bring back on the final development plan.

Mr. Schell asked if the applicant has concerns on the cut through that the neighbors spoke about.

Mr. Underhill stated that we are sensitive to that. Connectivity is not the top priority for a developer but more of an important city philosophy. We are happy to try to figure out how to make sure that speeds are not excessive. One of the earlier renditions provided a more straight shot over to SR 605. One of the things we did to calm traffic is to add the turns.

Mr. Wallace stated that I don't think the extension will make the speeding worse because it is such a short distance.

Ms. Aquilina stated that even though it is a short connection the concern is that it will be a connection to SR 605 and they won't need to slow down to turn onto Wentworth Drive, they can continue straight.

Mr. Kirby asked why they have standing seam only on the porches.

Mr. Mayer stated that it is a traditional American architectural standard that is used on homes in New Albany.

Mr. Kirby asked do we want to restrict it to porches only. Why do we not want it on the main roofs?

Mr. Mayer stated yes, it was a comment from the city architect. After talking to the city architect it is matching as close as possible, traditionally it is done only on the small front porches.

Mr. Kirby stated that I don't want the material restricted. I have seen many old homes with standing seam roofs. Asked for other opinions.

Mr. Kist asked if the orientation of the homes be predetermined. Will they have the option to add windows?

Mr. Underhill stated that the it is available. When we have a condition where there could be a side courtyard along an open space we have additional screening requirements.

Mr. Kist asked if I build home A and I want natural light and home B may or may not have a courtyard is home A restricted on window installation on that elevation.

Mr. Underhill stated yes, it will be predetermined.

Mr. Kist asked what the foundation material is.

Mr. Rhoades stated that is poured slab on grade with optional basement.

Mr. Kist stated that the exposed part could vary depending on elevation and the proposal is to just the paint the same color as siding.

Mr. Underhill stated only if less than 6" of exposure or add brick if more than 6" of exposure.

Mr. Kist asked if the variation from house to house. I think the city would like it to be uniform. I agree that the hardi-plank to grade is not an option. I think we need one standard. Asked staff for comment.

Mr. Mayer stated that our code doesn't allow for exposed foundation. Even on the homes that don't have a true brick water table they use a 2-3 brick course.

Mr. Kist asked if it was a true brick.

Mr. Mayer stated that brick veneer is acceptable.

Mr. Braet stated that we would want it to be uniform. I would like to defer to final development plan to work on this issue. We won't have a traditional foundation height and I'm having a hard time visualizing the elevations with brick. We want time to spend working with our designers on a solution.

Mr. Kirby likes the zoning text downcast lighting. I would ask that the solar panels section is re-worded to read the solar panels to be installed on the rear of homes, and stop there.

Mr. Punett Bajpai, no address provided, stated that he is resident that lives east of the development. Asked for clarification of the back of the homes and the green preserve area on the east side.

Mr. Underhill stated that the eastern boundary has a 30' setback.

Mr. Bajpai asked about the preserve area. What is permitted there?

Mr. Braet stated that is a passive backyard space. Only lawn, deed restrictions would restrict any improvements.

Mr. Bajpai stated that his house is where Jersey Drive dead ends and I would like to keep the dead-end and not connect.

Mr. Willis stated that the homes will have the fence from house to house and then green space. It also shows the AC units are on the back of the homes which means that the neighbors will get all of the noise from the AC Units.

Ms. Tomaszewski asked that the board is mindful of what is existing there. The green space is not a tree line, there is a lot of holes.

Mr. Kirby asked where her AC unit is located.

Ms. Tomaszewski stated that it is on the side of my house.

Mr. Kirby confirmed that it is next to your neighbor.

Ms. Tomaszewski stated yes. Just want to make sure that there are not existing trees there and this is not an accurate rendering.

Mr. Kirby asked the applicant if there is a reason not to install any landscaping in the rear.

Mr. Braet stated that we would be willing to discuss additional landscaping and buffering with the neighbors when we are at the landscape plan stage. Our goal is to be a good neighbor.

Mr. Kirby stated neighbors working with the developer can't be afraid to ask. A lot of cooperation can occur with open communication.

Mr. Larry Piper, 6690 Central College, asked about the possible future road to the south.

Mr. Mayer stated that it is a possible. The City always likes to encourage connection but we are not putting in the road is so we have flexibility.

Mr. Kirby asked what enforceable language is in the text so that the city can require that to be built if a developer to the south wants the connection.

Mr. Mayer stated that it will be city owned property and it states the connection possibility in the text. The city may be open and willing to provide the road connection in the future.

Mr. Kirby asked if we have a commitment for the road if called for.

Mr. Underhill stated that we have commitment to provide the right of way but don't want to construct it.

Mr. Steve Willis stated that they are kind of committing to the tree lines and the green space between them and the neighbors. What level of solid commitment can we get for landscaping or screening? It's easy to say they will but can you require the landscaping.

Mr. Kirby stated yes, I have a note to add a condition trees on east side and plan must be submitted with the final development plan. They will be back for the final development plan, which a public is meeting that you will all be invited to if you are within 200 feet.

Mr. Kist stated that you went to RFBA almost a year ago did the plan change from then to today.

Mr. Underhill stated we were at RFBA about 6 weeks ago and no major changes since that meeting.

Mr. Kirby stated condition 1 was modified unless subject to change at FDP; condition 2 is good and mostly reflected in the updated zoning text. We have two versions of the zoning text and we are working from the newer text tonight. Condition 3 is good; condition 4 is modified unless an alternative solution submitted at FDP.

Mr. Underhill asked city staff a question regarding the procedure.

Mr. Mayer stated that the city and New Albany Company have a signed agreement. It is a very specific document about when this agreed upon matrix needs to be presented and signed off by the city. It may need to be signed by City Council before coming back here for the final development plan.

Mr. Underhill stated that we were going to try to work with staff before Council will work on this because it is a zoning issue.

Mr. Kirby stated that condition 4 is modified unless staff approves otherwise; condition 5 is replace street trees in preservation areas when removed for utilities when possible; condition 6 requires downcast light; condition 7 provide front fence setback at final development plan; condition 8 transom windows instead of blank elevation;

Mr. Wallace clarified that the condition would require the windows.

Mr. Kist stated that permitted but not required.

Mr. Kirby stated condition 9 standing seam roof allowed on main roof; condition 10 reworded to say solar on rear roof; condition 11 trees on east side at final development plan; condition 12 road to south right of way prior to building permit issuance;

Mr. Wallace stated that we discussed parking.

Mr. Kirby asked if parking needs to be address now.

Mr. Mayer stated that parking can be done at final development plan.

Mr. Underhill acknowledge the issue.

Mr. Kirby asked for any other comments.

Mr. Braet stated that condition 11 about the east property line. We are willing to include the eastern and southern property lines in that condition.

Mr. Kirby moved to recommend approval of ZC-84-2017 subject to the following conditions:

1. The text be revised to require that if a brick water table is not used then the home's exterior material must extend to the surrounding grade.
2. Section IX(C)(3)(c) of the text is revised so it only applies to the design elements of side elevations.
3. Per the City Traffic Engineer's comment memo the applicant is responsible for pavement markings on New Albany Condit Road and they be revised to provide an exclusive southbound left turn lane, subject to the approval of the city traffic engineer
4. 35 units are taken out of the New Albany Company Housing Bank for this development and the applicant submit an updated housing unit matrix.
5. Replace trees, where possible, that have been removed from tree preservation zone due to utility installation.
6. Down casting light is required.
7. Front fence setback is determined at final development plan.
8. Transoms on the sides of courtyards are optional.

9. Standing seam roof is permitted on main structure.
10. Solar requirements reworded just say "on the rear roof"
11. Trees and landscape plan required for the eastern and southern perimeters of the subdivision are required at the time of the final development plan.
12. Right-of-way commitment for road to the south is made prior to building permit being issued, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

CU-05-2018 Conditional Use

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

Applicant: Ralph Fallon Builder c/o Ralph Fallon

Mr. Mayer presented the staff report.

Mr. Kirby stated that the chart shows that we need the moderate priced retail, personal services and maybe office spaces in New Albany. Zarley is not the most photogenic place in New Albany but they can make successful retail there. Where is the small incubator space, small retail, small office and personal services? I would guess 2nd & 3rd Streets. Let's find that place in the Village for additional permitted uses so that is it attractive to develop and we can keep Zarley the LI area.

Mr. Mayer stated that LI is the only zoning district that allows for sexually oriented business. We need to research the law and repercussions if this area was changed. Our strategic plan limits the personal services and retail uses so we can takes them to the targeted areas in village center. We do have an incubator in the city but it is full and has a waiting list. Internally we have been discussing how to provide more options to our small businesses.

Mr. Kirby asked for the applicant.

No response - applicant is not present.

Mr. Kirby asked for public comment. (no response)

Mr. Wallace stated that he is concerned that we are approving a conditional use without a user. We are basically rezoning the area and believes it is inappropriate. It should be looked at as a whole.

Mr. Kist stated that he thinks it undermines the conditional use process to skirt the timeline.

Mr. Schell asked if we knew why the applicant is not present.

Mr. Mayer stated that we provided the staff report and did not receive notice that he would not be present.

Mr. Schell stated that last time he was here I think he skirted around the fact that he has people occupying the space that shouldn't be there. I think there is a tenant in there now.

Mr. Kirby asked if we should table. Don't want to turn it down without providing the applicant a chance to respond to the questions.

Mr. Wallace moved to table until next regular meeting, seconded by Mr. Schell. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

VAR-07-2018 Variance

Variance to C.O. 1165 to setback and locations requirements for a pergola and fireplace at 7096 Armscote End (PID: 222-004846)

Applicant: Ciminello's Inc. c/o Kevin Fallona

Ms. Jackie Russell presented the staff report.

Mr. Kirby asked if this was in the rear yard would we need a variance.

Ms. Russell stated that it would still require a setback variance.

Mr. Kirby confirmed that the variance is because the two accessory structures are considered separate structures.

Mr. Kirby asked in the staff report page 2 of 4 bottom 3. Is that worded properly?

Ms. Russell stated no, it should read that it does appear

Mr. Wallace asked how much smaller the patio needs to meet the setback.

Ms. Russell confirmed that if this was the rear yard setback. The closest point to the property line is 22 feet. The required rear yard setback is 30 feet.

Mr. Wallace stated that this is the same type of variance that we saw a few months ago where the house takes up a huge portion of the lot and not enough room left over for the accompanying patio areas for the homeowner to enjoy.

Ms. Russell complete a preliminary review it was determined that this was a corner lot, so that is what deems that the side/rear yard lines.

Mr. Wallace stated that if this was the lot and we were dealing with the 30' line. The way that I read it is that there is a smaller patio that could fit. He asked if this was a standard design, it seems odd to have a pergola right next to the fireplace.

Mr. Mayer stated that it not too common. The building inspectors stated that the chimney needs to be two feet higher than the pergola.

Mr. Wallace stated that if we allow it then they will need to revise to meet the building requirements to minimize the fire hazard.

Ms. Russell stated that it would still have a building and zoning review.

Mr. Schell asked if stated that it shows trees "starfish" on the northeast side landscaping. Is there any other landscaping proposed on the north side.

Ms. Russell used the plan to show the proposed landscaping.

Mr. Kevin Fallona, Ciminellos, stated that "starfish" are evergreens there are no other plantings. The outdoor space is fully screened.

Mr. Wallace asked if you talked to the homeowners or the neighbors.

Mr. Fallona stated no the homeowner did not speak with anyone but they were notified of the meeting.

Mr. Schell verified that the neighbors were notified.

Ms. Russell stated that was correct.

Ms. Lauren Persichetti stated that the house is currently under construction. I was not aware of all of these issues, this was always the plan. The neighbor most affected has their garage blocking the view so they would be shielded from the proposed structures.

Mr. Wallace asked if she spoke to any of the neighbors.

Ms. Persichetti stated that they are not living there so no. Showed color renderings to the board.

Mr. Schell asked if it will be white as the picture shows.

Ms. Persichetti stated yes.

Mr. Kirby asked if it was passed the NACo ARC.

Mr. Fallona stated conditionally, they are waiting on the variance approval.

Mr. Kist asked what type of height restrictions these structures will have.

Mr. Mayer stated that it meets code requirements. Chimneys don't count toward the height of the structure. The pergola maximum height is 15 feet.

Mr. Schell stated that when you purchased the property you were not aware of the restrictions.

Ms. Persichetti stated that we spoke directly to the builder. The builder had this type of rear area on his parade home and no concerns were raised by the builder so we always thought it would be permitted.

Mr. Kist stated that I think we agree that these are two structures. I think we agree that for all intent purposes that this is the rear yard. So this boils down to a setback issue. How far is the encroachment into the setback; eight feet.

Mr. Fallona stated that if we are legally saying that this is the side yard. On the plot plan the rear yard setback is 30 feet which is in the middle of the driveway and this side is the side yard setback is only 8 feet which means that we are not encroaching.

Mr. Kirby stated that because it is a side yard setback is smaller.

Mr. Wallace stated that you can't have it both ways the structure is not allowed in the side yard. We are trying to figure out a way to have a resolution and vote on this.

Mr. Wallace asked if there is a different design with a pergola and fireplace that would meet the rear yard setback.

Mr. Kirby stated no, they only have two feet. Asked staff if a patio is permitted in the side yard.

Mr. Mayer confirmed that uncovered patios are permitted in the side yard up to five feet to property line.

Mr. Kirby stated that this is the builders issue and they are making it someone else issue. We need to hear from lot 59 because they are most impacted.

Mr. Banchefsky stated that the neighbor was notified.

Mr. Schell verified that it was mailed by regular mail.

Mr. Kirby stated that we won't mess up the home construction deadline dates.

Ms. Persichetti stated that we are expecting to move mid-May.

Mr. Mayer stated that the home construction is a separate permit.

Mr. Wallace stated that we need to do to grant a variance is to weigh the impact the variance has on the community and weigh that against whether you still have general use and enjoyment of the property. We don't know what the adjacent neighbors think about it because they did not attend the meeting.

Ms. Persichetti stated that this was one of our big motivations on building and moving. If this can't be approved is there other covered structures that we could have. This would be horrible if we couldn't have this.

Mr. Kirby stated that she should have a meeting with your building. I would like to hear from owners of lot 59 prior to making a positive recommendation on this. I'm not thrilled with this because it is another one that the builder should have caught this.

Mr. Wallace stated that we have dealt with this before and decided not to punish the homeowner. Asked staff if we send another letter.

Mr. Mayer stated that anytime an application is tabled we would send another letter to the homeowner.

Mr. Kirby stated that contacting your neighbor and ask them to write that they are alright with this.

Mr. Kist moved to table V-07-2018 until next regular meeting, seconded by Mr. Kirby. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

VAR- 08-2018 Variance

Variance to the building setback to allow for a covered parking structure at the Avenue development site located at the northeast corner of Smith's Mill Road and Forest Drive in the Canini Trust Corp(PID: 222-000347).

Applicant: New Albany Healthcare Real Estate, LLC. c/o Avenue Development

Ms. Russell presented the staff report.

Mr. Alexander O'Neil, New Albany Healthcare, stated that this is an amenity that we like to provide to the independent living residents. It is a secondary structure and not enclosed with minimal massing and visual impact, in comparison to the height of the building. With the existing buffer and the additional buffering between residential and this area the visual impact is minimal from all sides.

Mr. Kirby verified that this is head in parking so the headlights will face away from Plainview.

Mr. O'Neil stated correct. We understand staff condition with the columns and agree.

Mr. Kirby asked how many spaces are between each column.

Mr. O'Neil stated fifteen spaces about 3 between each column unless it needs adjusted with the column revisions.

Mr. Kirby asked where the structure is located. The roof of this structure is about the second story line.

Mr. O'Neil explained that the main building has a first and second story areas.

Mr. Kirby stated that this would break up the expanse of the building.

Mr. O'Neil stated correct.

Mr. Wallace asked if this building has been done before with a parking structure.

Mr. O'Neil stated that this is a proto-type building. It has been built in other areas but not sure if the parking structure was part of it or no. We felt that given the community that this was a desirable amenity.

Mr. Wallace asked where the entrance is located in relation to the parking structure.

Mr. O'Neil showed the closest entrance on the site plan.

Mr. Wallace verified that they would need to walk outside of the covered area to enter the building.

Mr. Schell asked if that is designed for permanent parking.

Mr. O'Neil confirmed that it is for the permanent residents.

Mr. Kirby stated that 18feet encroachment, how deep is the structure.

Mr. O'Neil stated that the structure is about 27 feet deep.

Mr. Schell moved to approve V-08-2018 subject to the condition that the column's design are corrected and double columns or wider columns are provided through out the structure, subject to the City's Architect's approval, seconded by Mr. Wallace. Upon roll call vote: Mr. Mr. Kirby, no; Wallace, no; Mr. Schell, yea; Mr. Kist, yea. Yea, 2; Nay, 2; Abstain, 0. Motion fails by a 2-2

Mr. Wallace stated that he doesn't believe the variance meets the requirements for a variance. The applicant understood the limitation of the property when purchased. The discussion of the structure of including the size and that people need to walk outside to get into the building.

Mr. Kirby stated that he believes that a reasonable return is still available, the rules seemed to be understood when the designs were done and could have adjusted the design.

FDP-09-2018 Final Development Plan

Final Development plan for the Walton Office 2 building located to the east of 8100 Walton Parkway(PID:222-003430).

Applicant: EMH&T c/o Matt Garver.

VAR-10-2018 Variance

Variations to section 7c of the NACo PUD Zoning Text to allow for a 3-4' high mound, to match the landscaping located in the buffer strips of 8100 Walton Parkway, to match the landscaping consisting of shrubs and trees at 8100 Walton Parkway, and to allow a 0 foot pavement setback at the western property line. (PID: 222-003430).

Applicant: EMH&T c/o Matt Garver

Mr. Russell presented the staff reports.

Mr. Wallace asked what would happen if it 0' lot line did not exist.

Ms. Russell stated that if the 0' setback did not exist the parking lots would not connect and there would be grass between the parking lots. She continued with the staff reports.

Mr. Ed Ferris stated no engineering comments.

Mr. Tucker Bohm, The Daimler Group, stated that this building is the same just a little smaller due to site restrictions. The variances are to keep a consistency between the multiple buildings. The cross access easements is a private easement between land owners. NACO sold the site to the east to a non-related entity. Today we don't control the ground to the east and we are not planning to complete another phase. We need to clean

up the title. If staff and commission believe it is important we would be willing to keep the easements but prefer to only keep the north access easement.

Mr. Kirby stated that the southern easement allows the next site over the freedom with the curb cut.

Mr. Bohm continued we do have a dry pond on this site and we agree with the landscape architect to add some trees. We have a spec building and have a potential user and will be moving dirt as soon as possible.

Mr. Kirby asked if any conflicts with staff conditions.

Mr. Wallace stated that the condition doesn't note that the roof top screening for site and sound.

Mr. Mayer stated yes, it should be.

Mr. Wallace stated that we added language regarding the mounding height should be sensitive to headlights. Has staff received any reports from neighbors? Is what we approved working for the neighbors.

Mr. Mayer stated that we haven't had any feedback from neighbors post-construction on headlights.

Mr. Doug Lee, 6877 Cedar brook Place, stated that he appreciates office buildings instead of apartment buildings. Have some concerns about the ambient lighting and whether it will cause problems.

Mr. Kirby verified that they have the same restrictions on how much light they can put onto others property. The parking lot light pole height is probably in the zoning text.

Mr. Mayer stated that this will use the same lights as currently used in the parking lot which is maximum 25' pole with downcast lights.

Mr. Lee stated that he is also concerned about water runoff. We didn't have any problems with water but it got worse this spring when they piled the dirt and raised the level of the field.

Mr. Kirby asked if they have a grading plan for the site and can we see if they met the grading.

Mr. Ferris stated that he would need to research the plan.

Mr. Kirby stated that the rule is that they can't change your drainage.

Mr. Lee stated that a simple solution is to cut a drainage ditch between the residential and this development. I spoke with a neighbor who worked with the contractor and the contractor installed drainage tile which seems to have made the drainage worse. He is also concerned about headlights.

Mr. Kirby asked if we have the topography of the adjacent lots.

Mr. Ferris stated that the auditor has the information.

Mr. Lee stated that the mound was initially supposed to be 6' tall.

Mr. Kirby stated that it was changed so that we could preserve the trees.

Mr. Bohm stated that any trees removed will be replaced.

Mr. Ben Arthurs, 6869 Cedar brook Place, would like to thank Randy with EP Ferris for his assistance in getting the French drain installed. Have a drop box with the pictures of the area. When they built this parking lot the water is now draining differently. The first two weeks the new building was open the parking lot flooded which in turn had running water 6" deep into our yards.

Mr. Kirby verified that it has never done that before.

Mr. Arthurs stated no and we have lived there three years. A French drain was installed and the flooding is worse now than ever. I would like a commitment of some kind of drainage with the 3-4' retaining mound with the trees. The reason you don't have a complaint is because of traffic flow and they have only been open about two months. We are also getting traffic headlight. The mound is insignificant.

Mr. Kist verified that the variance is to match the existing mound.

Ms. Russell correct. The zoning text requires 5-6' mound and the variance is to match Walton Office 1 with a 3-4' mound.

Mr. Mayer stated that mounding was interrupted initially by the utilities. We don't anticipate that issue on this site. This site will also have a dumpster to provide additional screening.

Mr. Kirby verified that it will be a dumpster building.

Mr. Kist stated that the dumpster is shown on the far end at the end of the drive aisle. Do you have the site development plan with grades?

Mr. Mayer stated typically we say 3-4' because if you look at the car tire you have a 6" curb so about 3.5' with some variation in grade for the parking lot to allow for proper drainage.

Mr. Arthurs stated that the French drain will be covered by the parking lot. Where they tried to fix a mistake

Mr. Mayer stated that we can sit with the resident to discuss the proper drainage.

Mr. Kirby asked if you could move the catch basins moved to the north which would slightly lower the parking lot closest to the neighbors which would give the effect of a larger mound. Can we have the engineers look at that option?

Mr. Tucker stated that we will look at that.

Mr. Kirby stated that they may be some leeway.

Mr. Lee asked if lowering the parking lot will cause the parking lot flood. The water flows from the north to south.

Mr. Kirby stated that we want the engineers to look at the drainage. Do we want the FDP contingent upon the variance approval?

Mr. Kirby moved to approve FDP-9-2018 subject to the following conditions:

1. Cross access easements for the shared access drive and to share parking between the buildings to the east and west should remain, except for the portion of the southern easement which is covered by the proposed building.
2. Address the comments of the City Landscape Architect.
3. Address the comments of the City Engineer.
4. All rooftop equipment is completely screen on all four sides, subject to staff approval.
5. Signage is subject to staff approval.
6. Roof top screening for sight and sound
7. Tree replacement on the north.
8. Address drainage as well as possibly lower the parking lot for headlights
9. Variance must pass , seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

Mr. Wallace moved to approve V-10-2018 subject to the following conditions:

1. If FDP-09-2018 is not approved the variance shall become null and void.
2. Any impacted trees in the buffer strip are replaced.
3. Mounding height shall be sensitive to headlight screening and pavement elevation particularly along the main drive aisles
4. 5 trees per 100 feet are installed within the buffer strip at this site. Final determination provided by the city landscape architect. , seconded by Mr. Schell. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 10:19 p.m.

Submitted by Pam Hickok

APPENDIX



**Planning Commission Staff Report
February 21, 2018 Meeting**

**YERKE WEST ZONING DISTRICT
ZONING AMENDMENT**

LOCATION: 7100 New Albany Condit Road: Generally east of State Route 605/New Albany-Condit Road, south of New Albany Road East, and north of Central College Road of Schleppe Road, and east of the Upper Albany subdivision (PID: 222-001972))

APPLICANT: Epcon Communities c/o Aaron Underhill Esq

REQUEST: Zoning Amendment

ZONING: "C-PUD" Comprehensive Planned Unit Development to "I-PUD" Infill Planned Unit Development

STRATEGIC PLAN: Office District

APPLICATION: ZC-84-2018

Review based on: Application materials received November 22, 2017. December 27, 2017, and February 13, 2018.

Staff report completed by Stephen Mayer, Development Services Manager.

I. REQUEST AND BACKGROUND

The applicant requests review and recommendation to rezone 35.0+/- acres. The applicant proposes to create a new zoning district that permits 105 residential, age-restricted units within a new residential subdivision. The applicant commits to making this an age-restricted community by requiring 100 percent of the units in the development have at least one occupant who is 55 years of age or older. Moreover, the applicant commits to require that no one under the age of 21 shall be permitted to be a permanent resident to the extent that the law allows.

This zoning area will be known as the New Albany North Zoning District, and will be zoned I-PUD Infill Planned Unit Development.

On March 16, 2017 the Rocky-Fork Blacklick Accord recommended approval of the application.

The site was zoned to allow for commercial uses as part of the 1998 NACO C-PUD and is currently within subarea 7F: Yerke West. The site is located in the 2014 New Albany Strategic Plan's Office Campus future land use district. However given the proposed use, staff has evaluated this proposal against the Town Residential District standards.

II. SITE DESCRIPTION & USE

The neighboring uses and zoning districts include data centers to the north, office use to the west, and residential to the east and south. The site is currently an undeveloped farm field with a small wooded area.

III. PLAN REVIEW

Planning Commission's review authority of the zoning amendment application is found under C.O. Chapters 1111.02 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 1159.08 the basis for approval of a Preliminary Development Plan in an I-PUD shall be:

- 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 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 of dwelling units 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).*

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 site is located in the 2014 New Albany Strategic Plan's Office Campus future land use district. However given the proposed use, staff has evaluated this proposal against the Town

Residential District standards. The 2014 New Albany Strategic Plan lists the following development standards for the Town Residential District:

1. Houses should front onto public open spaces and not back onto public parks or roads.
2. House should be a minimum of 1.5 stories in appearance and a maximum of three stories.
3. Rear and side loaded garages are encouraged. When a garage faces the street, the front façade of the garage must be setback from the front façade of the house.
4. The maximum width of a garage door facing the street is ten feet.
5. Open space should be sited to protect and enhance existing natural features and environmentally sensitive habitats.
6. Neighborhood open spaces and parks should be located within 1,200 feet of all houses. They should vary in size and be easily accessible to pedestrians.
7. Streets should have five-foot wide sidewalks on both sides of the street, other than in locations approved for eight-foot leisure trails.
8. Leisure trail connections must be established throughout.
9. The district should include a hierarchy of streets.
10. The maximum lot width should not exceed 90 feet. For areas where density exceeds 1.5 dwelling units per acre the maximum average lot width should be no larger than 80 feet.
11. The average single-family lot area should not exceed 12,500 square feet.
12. Stormwater management ponds and areas should be incorporated into the overall design as natural features and assets to the community. Shapes of ponds should not appear engineered, but should appear as if they naturally occurred in the location.
13. A hierarchy of open spaces is encouraged. Each development should have at least one open space located near the center of development. Typically, neighborhood parks range from a half to 5 acres. Multiple greens may be necessary in large developments to provide centrally located greens.
14. Deciduous trees should be planted 30 feet on center.
15. Cul-de-sacs are discouraged in all developments and a multiplicity of connections should be made.

B. Use, Site and Layout

1. The proposed zoning text is a planned unit development text. PUD texts allow flexibility in design.
2. The 2014 Strategic Plan's "Town Residential" land use category states the base density is one unit per acre, with a density bonus of up to 1.5 dwelling units per acre with strict adherence to the development standards. The preliminary development plan shows the gross density is 3.0 units per acre.
3. A school impact statement has been submitted. The applicant states the school impact statement for the age-restricted Nottingham Trace subdivision assumed that 0.05 students per unit would be generated from the units that were age-restricted. The housing product in Epcon's community will be similar and therefore the same student-per-home ratio should apply here. Since Epcon has agreed to restrict 100% of its units, the 0.05 students will apply to all homes. Based on this assumption, the proposed community, if it were not subject to the "under age 21" prohibition, would place 5 students into the NAPLSD (105 homes x 0.05 students/home = 5.25 students). Based on an assumed five students generated, the applicant has projected this development to have a net positive financial impact on the school district. However, the age prohibition in the zoning instead will mean that there will be no cost to educate anyone in this neighborhood.
4. The PUD text consists of one subareas that is 35 acres and allows:
 - o single-family detached residences, subject to the age restriction requirements;

- twin-single family attached residences, subject to the age restriction requirements;
 - Publicly or privately owned parks and open spaces;
 - One private amenities center/clubhouse, which may include a fitness center, gathering spaces, and/or other recreational and social facilities, amenities, and improvements serving only the residents living in this zoning district;
 - A temporary sales office to be permitted until the first residential model home is open for use; and
 - Residential model homes at any given time subject to the review and approval of the Planning Commission
5. Section IV requires homes within this subarea shall be age restricted in accordance with the Fair Housing Act and the HOPA Exemption so that a minimum of 100% of the homes shall be required to have at least one occupant that is age 55 or older. The applicant further agree that the community shall not permit permanent residents in the community who are under the age of 21 to the extent permitted by law. Prior to being issued a temporary or permanent certificate of occupancy for the first home in this subarea, the applicant/developer shall deliver written and legally binding documentation to the City to provide confirmation that the project legally complies with the Act and the HOPA Exemption. Failure to comply with the Act and/or the HOPA Exemption shall constitute a zoning violation that is enforceable by the City. The text requires the applicant/developer shall provide evidence to the city that it has recorded a written restriction requiring the property may only be developed and operated in accordance with the requirements listed above. Prior to recording the restriction the text requires the applicant/developer to deliver a draft copy of the restriction to the city's law director for reasonable review and confirmation.
6. Below is a list of setbacks:
- State Route 605: building and pavement setback of 250 feet from centerline.
 - Internal Setbacks:
 - Front Yard Setbacks: minimum 20 feet from the edge of the right-of-way.
 - Side Yard Setbacks for residential units: minimum 5 feet from the property line for detached structures and zero setback for twin-single attached homes.
 - Rear Yard setbacks for residential units:
 - Along the northern property line of the subdivision a minimum 30 foot setback.
 - On the southern property line of the subdivision minimum rear yard setback of 50 feet.
 - All other lots shall have a minimum 15 foot setback.
7. The subdivision is well designed and meets the recommendations of the city's strategic plan by not backing any lots onto public open spaces and streets.

C. Access, Loading, Parking

1. The residential subdivision portion of the site has four connections.
2. The primary access to the site will be from two curb cuts along State Route 605. Additional access to the site will be provided from connections to the two existing stub streets located to the north (Souder Road) and east (Jersey Drive) of the property.
3. The PUD text requires all streets within the development are public and shall be constructed to required public specifications. The right-of-way for internal streets within the development shall be 50 feet in width. Pavement for all internal streets shall be 26 feet in width, measured from front-of-curb to front-of-curb. This matches the requirements in the city's subdivision regulations.
4. The PUD text requires prior to the issuance of the first building permit for any structure to be built in this subarea, the applicant/developer shall dedicate right-of-way to the City

for a distance that extends 50 feet from the centerline of State Route 605/New Albany-Condit Road and from the centerline of Walnut Street. The City Engineer has commented this amount of right-of-way is acceptable.

5. A Traffic Impact Study has been submitted and reviewed by the City Traffic Engineer. The City Traffic Engineer comments they find the study to be appropriate and acceptable. The major finding includes that pavement markings on New Albany Condit Road be revised to provide an exclusive southbound left turn lane of 225 ft. including a 50 foot taper and that northbound right turn lanes are not warranted for either of the two proposed access locations. Staff recommends a condition of approval requiring the applicant is responsible for pavement markings on New Albany Condit Road and they be revised to provide an exclusive southbound left turn lane subject to the approval of the city traffic engineer.
6. The text contains a commitment requiring public sidewalk shall be installed within the right-of-way on each street. Sidewalks shall be 5 feet in width and shall be constructed of concrete.
7. Asphalt leisure trails with a width of 8 feet shall be constructed by the applicant/developer in the following locations in this subarea: (a) Along State Route 605/New Albany-Condit Road frontage, (b) east to west from Souder Road to the new path on State Route 605, and (c) through the central green space. Final locations of leisure trails shall be approved as part of one or more final development plans.

D. Architectural Standards

1. The PUD text states this development will not be required to strictly adhere to the City's Design Guidelines and Requirements (DGRs) and its Codified Ordinances. The text says the intent is to meet the spirit and purpose of the DGRs and the Codified Ordinances by replicating the architectural styles of the DGRs while allowing for deviations to accommodate home designs that serve the active adult segment of the home buying market.
2. The text says the design intent of this neighborhood is to borrow from the tradition of the summer retreat camps popular in the 1990's. Examples include the Oak Bluffs Meeting Camp on Martha's Vineyard and Lakeside Ohio. These camps were a collection of small cottages around a central meeting house and green. The text says the proposed architecture aesthetic is consistent with the character of New Albany by referencing the "rectangular form houses." The homes in this community will be simple forms, generally rectangular in shape.
3. The city's Design Guidelines and Requirements standards help create connected neighborhoods that will sustain their quality and vibrancy over time. These guidelines have been developed by New Albany to help ensure that our community enjoys the highest possible quality of architectural design. The guidelines are useful by showcasing good design principles and ensuring development will benefit the entire community.
4. The developer is designing homes for a certain age group whose form and function will not meet the architectural standards of the city's DGRs. The city's goals are to enhance some design elements of the proposed homes to help create quality neighborhoods that hold value over time. A streetscape goal for the project includes layering of features, intersection treatments, street trees, on lot landscaping, and front porches to mitigate the visual impact of the proposed double bay garage doors, that don't meet city's strategic plan standards, on the streetscape.
5. The text requires all homes shall be 1.5 stories or 1.5 stories in appearance from the front elevation thereby meeting one of the New Albany Strategic Plan's development standards recommendations that all houses should be a minimum of 1.5 stories in appearance and a maximum of three stories.

6. The New Albany Strategic Plan’s development standards recommendation is rear and side loaded garages are encouraged. When a garage faces the street, the front façade of the garage must be setback from the front façade of the house. Plus the maximum width of a garage door facing the street is ten feet. The PUD text allows garages to face the street with double-bay garage doors. The elevations provided appear to show the garage doors being 16 feet in width. The text states garages must be setback at least 2 feet, 8 inches from the front façade of the home. However, the text defines the front façade as the forward-most plane of a front porch. The text requires all homes must have a front porch.
7. The text permits brick, brick veneer, and cementitious/ composite siding. Vinyl siding is prohibited. The text requires exterior wall finish materials must be used to complete massing elements. Each exterior façade of a home shall utilize one primary material and that material shall be used on all elevations of that home.
8. The states exposed concrete foundation walls shall be prohibited. But the texts also states “brick or brick veneer shall be required to cover the exterior of foundation walls that are exposed for more than 6 inches above grade. Exterior foundation walls which are exposed for 6 inches or less shall be painted with a color that matches the color of the homes primary building material.” Staff recommends the Planning Commission review the appropriateness of exposed foundations. The city’s Design Guidelines and Requirements do not allow for exposed concrete foundations. Homes in other subdivisions that do not have a brick water table bring the home’s material down to grade so there is no exposure. Staff recommends a condition of approval requiring that the text be revised to require that if a brick water table is not used then the home’s exterior material must extend to the surrounding grade.
9. The city’s Design Guidelines and Requirements requires four-sided architecture. The proposed housing project offers side, courtyard living space instead of traditional rear-yard living space. In order to accommodate a private courtyard space on the side of homes, the neighboring property’s side elevation is left blank without windows or doors. In an effort to meet the intent of the DGRs the PUD text prohibits blank façades and contains a definition and criteria for what four-sided architecture shall constitute in this neighborhood.
10. The PUD text allows for these blank façades only when adjacent to a side yard. The text requires any side elevation of a home that faces a public street on a corner lot and any side elevation of a home that is adjacent to open space or parkland shall include two or more windows plus at least one of the design elements from the following list (evaluated below).
11. Section IX(C)(3)(c) states the design elements apply to side and rear elevations. Staff recommends this section is revised so it only applies to side elevations. There is a separate section that contains a list of design elements for rear elevations in the text.

| Text Requirement: | Staff Comments: |
|---|---|
| (1) Cornices above windows | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (2) Shutters which appear to be open and appear to be operable and mounted on appropriate shutter hardware (hinges and shutter dogs); | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (3) Closed shutters that appear to completely cover | This appears to be an appropriate architectural element since it will likely add visual interest to the |

| | |
|---|---|
| one or more windows, although no window shall be required to be installed behind such shutters; | exterior of the home. |
| (4) Doors; | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (5) Bay windows or bay elements | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (6) Chimney; | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (7) Decorative louvers. | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |

12. Similarly, the PUD text requires the rear elevation of each home shall be articulated with a minimum of at least two of the design elements from the same list (evaluated below):

| Text Requirement: | Staff Comments: |
|---|---|
| (1) Doors; | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (2) Porches | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (3) Two or more windows (bay windows count as a window) | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (4) Bay windows or bay elements | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (5) Chimney; | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (6) Decorative louvers. | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |
| (7) Shutters which appear to be open and appear to be operable and mounted on appropriate shutter hardware (hinges and shutter dogs); | This appears to be an appropriate architectural element since it will likely add visual interest to the exterior of the home. |

- t. The text allows roofs to be of natural slate wood shake or wood shingle, or an architectural grade fiberglass asphalt shingle. Metal standing seam shall be permitted as roof material only on porches. Solar panels are permitted to be installed on roofs on the rears of homes that face southward, provided they are not visible from a public street.

- u. Per the zoning text requirements the applicant has provided architectural elevations and renderings. More detailed architectural elevations and/or rendering shall be submitted for approval by the Planning Commission as part of the final development plan. The City Architect has reviewed the submitted elevations and comments the homes' massings are fairly clean and simple, and given the site plan, the individual units will create a cohesive fabric when built close together. He believes that a limited palette of materials and colors will be more successful as opposed to more variations.

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

- 1) The 2014 Strategic Plan's Roadway Corridors Strategy identifies this portion of State Route 605 and recommends a 250 foot rural setback from centerline. The proposal meets the 250 setback along State Route 605. The applicant is providing a 320 foot setback from the center line of State Route 605 as shown on the preliminary development plan.
- 2) The 2014 Strategic Plan recommends open space be sited to protect and enhance existing natural features and environmentally sensitive habitats. The applicant has provided public parkland where natural features are present. This consists of a small wooded area along State Route 161. The applicant also commits to a 20 foot wide tree preservation zone along the southern property line of the subdivision. The text allows for the construction of underground utility lines and underground storm water management infrastructure.
- 3) The Codified Ordinances contain requirements about the provision of open space and parkland dedication. The table below shows the required and proposed amounts. Per C.O. 1187.16 wet and dry stormwater basins shall not be considered open space. The proposal does not meet the Codified Ordinance requirements.

| C.O. Requirement | Shown on PDP as | Required (acres)* | Provided (acres) | Difference | Meets Code? |
|-----------------------------|------------------------|--------------------------|-------------------------|-------------------|--------------------|
| 1187.16 Open Space | Open Space | 7.0 | (see total below) | | |
| 1189.15 Parkland Dedication | open Space | 5.78 | (see total below) | | |
| Total | | 12.78 | 7.4 | -5.38 | No |

*Calculations based on 89.6 acres and 240 lots.

- 4) The applicant commits to provide for an equivalent contribution toward the City's parkland and open space amenities through the purchase and dedication to the City or Franklin County Metro Parks of undeveloped land located elsewhere in the New Albany Plain Local School District, or alternatively by making an equivalent monetary contribution to the City for the purpose of funding other parkland development, leisure path, and/or other recreational programs or plans.
- 5) The zoning text states "ownership and maintenance of the parkland and open space areas which are shown on the preliminary development plan shall be defined and approved with the final development plan."
- 6) The PUD text states "due to the nature of this subarea as an age-restricted community, it shall be exempt from the requirement of Section 1185.15(c)(6) that would otherwise require all residences to be located within 1,200 feet of playground equipment."

- 7) Street trees shall be required on both sides of internal public streets, except that this requirement shall not apply to the sides of streets which abut parks or reserve areas (the planting requirements, if any, for these areas shall be approved as part of the relevant final development plan). Trees shall be a minimum of 2 ½ inches in caliper at installation and shall be spaced at an average distance of 30 feet on center, except that along New Albany-Condit Road trees may be grouped, provided the quantity is equivalent to 1 tree per 30 feet or fraction thereof.
- 8) In addition to street trees, the text requires an additional one deciduous tree in the front yard of each residential unit to create the appearance of a double row of street trees.
- 9) The text requires the final development plan for this subarea shall provide a landscaping plan for the no-build zone/required setback areas for New Albany-Condit Road. The landscaping plan shall be natural in character and shall maintain the character of these thoroughfares as rural roads. In addition to the street tree requirements, within rural road setback, there shall be a minimum of 4 trees/100 lineal feet in natural hedgerow manner and shall be a mix of a minimum of 2" caliper trees subject to the approval of the city landscape architect.

D. Lighting & Signage

1. No signage is proposed at this time. The text states signage shall be reviewed by the Planning Commission with the final development plan.
2. Each home must have coach lights on the garage. Uplighting of the exterior of a home shall be prohibited. Security lighting, when used, shall be of a motion sensor type.
3. Light poles within parking lot areas near the private amenities center/clubhouse shall not exceed 18 feet in height, shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.

E. Other Considerations

1. The zoning text states that future variances within the subdivision be heard by the New Albany Planning Commission instead of the Board of Zoning Appeals. This is a common clause in PUD development texts.
2. Staff recommends that 35 units are taken out of the New Albany Company Housing Bank for this development and the applicant submit an updated housing unit matrix.

IV. ENGINEER'S COMMENTS

The City Engineer comments they have no further comments on this submittal other than those provided relating to the Traffic Impact Study. Staff recommends all the City Engineer's Traffic Impact Study comments are complied with and subject to staff approval. The engineering comments can also be under separate cover from the consulting City Engineer, E.P. Ferris & Associates.

V. RECOMMENDATION

Basis for Approval:

The proposed use appears to be appropriate for this location within the city at this transitional point between residential to the east and commercial to the north and west. The applicant proposes a density of 3.0 units per acre. While New Albany Strategic Plan's Town Residential District allows a bonus density of 1.5 units per acre with strict adherence to the development standards, this proposal is unique since it is age restricted. Typically school impact studies

assume 0.8 students per house will be generated. In this case, with the age-restrictions, it is not anticipated to generate any students, but the applicant states that if the under 21 prohibition was not in place, only five students would be generated.

As proposed the zoning meets 12 out of the 15 New Albany's Strategic Plan's development standards.

Although the proposal is not meeting the open space requirements on site, it does commit to make an equivalent contribution through the purchase and dedication to the City or Franklin County Metro Parks of undeveloped land located elsewhere in the New Albany Plain Local School District, or alternatively by making an equivalent monetary contribution to the City for the purpose of funding other parkland development, leisure path, and/or other recreational programs or plans. Staff is supportive of these monetary or off-site alternatives.

The subdivision is well designed through multiple connections with an excellent site design and plan layout. While the street network and layout is desirable from a site planning perspective, and shouldn't be overlooked, departing from the traditional American architectural style is a big consideration. The developer is designing homes for a certain age group whose form and function will not meet the architectural standards of the city's DGRs and has therefore exempted the residential subdivision from the city's codified architectural requirements known as the DGRs. City staff does not want this departure to become the norm. In order to address these concerns the applicant has provided additional landscaping to offset the homes' aesthetics and has committed to requiring every home be 1.5 stories, include a front porch, and use quality building materials such as brick and cementitious/composite material.

Staff is supportive of this application provided the recommended revisions are all addressed. Overall, the proposed development meets:

1. The overall effect of the development advances and benefits the general welfare of the community (C.O. 1111.06(f)).
2. The site size and location appears to be sufficient to serve the anticipated development on the site (C.O. 1111.06(g)).
3. The adjacent land uses are generally compatible, including residential uses and uses within close proximity (C.O. 1111.06(a)).
4. The adjacent zonings include similar zoning classifications as the underlying zonings for the proposed I-PUD (C.O. 1111.06(d)).
5. The I-PUD rezoning application is an appropriate application for the request (C.O. 1111.06(e)).
6. The site can be sufficiently accessed (C.O. 1111.06(c)).

VI. ACTION

Suggested Motion for ZC-84-2017:

To recommend approval to Council of Zoning Change application ZC-84-2017 based on the findings in the staff report with following condition of approval (conditions may be added)

1. The text be revised to require that if a brick water table is not used then the home's exterior material must extend to the surrounding grade.
2. Section IX(C)(3)(c) of the text is revised so it only applies to the design elements of side elevations.

3. Per the City Traffic Engineer's comment memo the applicant is responsible for pavement markings on New Albany Condit Road and they be revised to provide an exclusive southbound left turn lane, subject to the approval of the city traffic engineer
4. 35 units are taken out of the New Albany Company Housing Bank for this development and the applicant submit an updated housing unit matrix.



**5780 ZARLEY STREET
GENERAL OFFICE CONDITIONAL USE**

LOCATION: 5780 Zarley Street (PID: 222-000267)
APPLICANT: Ralph Fallon Builders
REQUEST: Conditional Use for future office use
ZONING: LI [Limited Industrial District]
STRATEGIC PLAN: Office
APPLICATION: CU-05-2018

Review based on: Application materials received January 10, 2018.

Staff report completed by Stephen Mayer, Development Services Manager.

II. REQUEST AND BACKGROUND

The applicant requests approval to allow a future office use within a portion of the building at 5780 Zarley Street. General Office Uses are a conditional use within the Limited Industrial Zoning District. The applicant does have a specific tenant but requests the use of 5,648 square feet of office use.

In December 2017, the Planning Commission approved a conditional use to allow general office activities within 2,752 square feet of this same building for New Albany Security. This business employs a total of 20 employees, but typically will have 5-6 employees at the office at any given time throughout the day.

III. 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.

IV. 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 general office activities. There is no specific tenant known and this application will allow the owner to advertise the space as available office space.
- In December 2017, the Planning Commission approved a conditional use to allow general office activities within 2,752 square feet of this same building for New Albany Security.

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. According to documents provided by the owner the building has approximately 14,000 square feet of space.

Parking:

- According to the site plan provided by the applicant the facility currently has 25 parking spaces. However, the site plan is slightly out-of-date and staff observed 42 marked parking spaces when visiting the site.
 - 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 previously approved office space for New Albany Security encompasses approximately 2,700 square feet of space which requires 11 parking space.
 - With this application the owner proposes to allow for an additional 5,648 square feet of office space which requires 23 parking spaces.
 - This leaves eight parking spaces as flex parking and for use with the warehousing portion of the building. The owner mentioned at the previous conditional use application that he is using it as storage 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.

- (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 future office user 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.
 - There are other office users already existing in the Zarley Industrial Park, so the traffic should be the same or similar as what it is now.
 - A road connection to Forest Drive was constructed by the city in 2016 to provide an additional entrance into the Zarley Industrial Park.

V. RECOMMENDATION

The purpose and function of the Zarley Industrial Park has changed significantly since 2012. The Planning Commission has approved nine conditional uses for personal service, retail product sales and general office uses. 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. Below is a chart outlining the current uses in Zarley Park.

| Use Type | Square feet | % of of Park | Number of Users |
|-----------------------------------|---------------|--------------|-----------------|
| Personal Service CU | 42,149 | 25.5% | 6 |
| Retail Product Sales CU | 29,818 | 18.0% | 3 |
| Office CU | 5,099 | 3.1% | 2 |
| Subtotal | 77,066 | 46.6% | 11 |
| Religious (Permitted) | 1,324 | 0.8% | 1 |
| | | | |
| LI District Permitted Uses | 86,873 | 52.6% | 12 |

The city has invested in the area via the new road segment, Via Tessora. This new road provides connectivity to the city's business park and allows for Zarley Park to be a part of the business park. Based on this fact, and the Planning Commission's previous discussion and request, city staff is researching rezoning the park to allow for office uses. 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.

Staff recommends approval to allow the conditional use to run with the property in this limited space so office tenants can change without a conditional use. This allows for maximum flexibility for the owner and still allows for the LI uses in the future if so desired while staff researches how best to permit office throughout the entire park. The overall proposal appears to be generally consistent with the code requirements for conditional uses and general office activities. There are currently several other companies with approved conditional uses at the Zarley Industrial Park. 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.

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

VI. 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-05-2018 to allow office uses within the 5,648 suite space as submitted at 5780 Zarley Street .



Source: Bing Maps



**Planning Commission Staff Report
February 21, 2018 Meeting**

**7096 ARMSCOTE END
PERGOLA VARIANCE**

LOCATION: 7096 Armscote End (PID: 222-004846)
APPLICANT: Lauren Persichetti c/o Ciminello's Inc.
REQUEST: A. Variance to Codified Ordinance Chapter 1165.06(a)(2)(B) to allow a pergola to be placed less than ten (10) feet from another accessory structure;
B. Variance to Codified Ordinance Chapter 1165.06(e)(4) to allow a pergola to be located within a side yard area.

ZONING: R-4 (Single-Family Residential District)
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: V-7-2018

Review based on: Application materials received January 18, 2018 and February 5, 2018.

Staff report prepared by Jackie Russell, Development Services Coordinator.

I. REQUEST AND BACKGROUND

The applicant requests the following variances for a pergola and paved terrace in the rear yard of a single family residence:

- A. Variance to Codified Ordinance Chapter 1165.06(a)(2)(B) to allow a pergola to be placed less than ten (10) feet from another accessory structure;
- B. Variance to Codified Ordinance Chapter 1165.06(e)(4) to allow a pergola to be located in a side yard.

The applicant plans to install a pergola and a fireplace on a brick paver in the side yard of this property.

II. SITE DESCRIPTION & USE

The site has a single family home, constructed in 2017 according to the Franklin County Auditor, and is within the section 28, part 2 of the New Albany Country Club. The lot is 0.36 acres and is a corner lot. The neighboring properties have single-family homes constructed on the sites.

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.

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.*

III. RECOMMENDATION

Considerations and Basis for Decision

A. Variance to Codified Ordinance Chapter 1165.04(a)(2)(B) to allow a pergola to be placed less than ten (10) feet from another accessory structure.

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

1. Codified Ordinance Chapter 1165.04(a)(24) states an accessory structure shall be located at least ten (10) feet from any other accessory structure situated on the same lot.
2. The applicant is proposing to build a fireplace at the northeast side of the pergola. The pergola and the fireplace are zero feet apart. The plans appear to show the pergola is being partially built over the base of the fireplace.
3. It does not appear granting the variance will preserve the spirit and intent of the code requirement because it doesn't appear the applicant is over developing the lot by adding the two structures in close proximity. The applicant is creating a specific outdoor living space in one area of their lot with the proximate location of the pergola and fireplace, which ultimately reduces the amount of the space that is being developed on the lot. The remainder of the lot is proposed to be used for landscape screening and open space.
4. The close proximity of the fireplace and pergola allows the homeowner to enjoy their outdoor living area in its entirety.
5. The pergola and fireplace appear to be well designed and function well with site.
6. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment." The variance does not appear to negatively affect neighboring properties. The pergola and fireplace are screened by large trees and are located approximately 22 +/- feet from the northeast property line and approximately 60 +/- feet from the northwest property line.
7. Both neighboring lots have existing homes located on them.
8. The request does not seem to be substantial given that the addition of the pergola and fireplace are located within the area that the homeowners use as active outdoor space.
9. The pergola allows for additional detailing of their outdoor space and creates a living space with the proximity of the fireplace.
10. It appears 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.
11. It appears granting the variance will not adversely affect the delivery of government services.

B. Variance to Codified Ordinance Chapter 1165.06(e)(4) to allow a pergola to be located in a side yard.

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

1. Codified Ordinance Chapter 1165.064(e)(4) requires an open-sided structure be built in the rear yard buildable area. This area is defined as the interior lot area bounded by the rear yard setback line and a side yard setback line on each side of the house, which is parallel to the side property line and turns at a 90-degree angle to intersect the corner of the house closest to the side yard being considered.
2. According to C.O. 1105.02(dd) "Rear lot line" means that lot line which is opposite and furthest removed from the front lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension.
3. The lot is a corner lot. The applicant requests permission to install the pergola and fireplace in the space they actively use as their rear yard.
4. According to C.O. 1105 the pergola is being installed in the side yard. The rear lot line and side lot lines are determined solely by the dimensions of the lot itself and not by the orientation of the home. In this case, the home's rear elevation, and the lot line that the city code defines as the rear lot line do not align.
3. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment." The pergola is setback from the neighbors approximately 22 +/- feet from the northeast property line and approximately 60 +/- feet from the northwest property line. The required setback for the pergola if it was located in the rear yard would be thirty feet, but code allows for patios to be 20 feet into the rear yard. The pergola will not be very visible from Hanby's Loop since trees are located between the living space and the street. The pergola will also not be visible from Armscote End since the front door is located on Armscote End and the primary structure separates the pergola from the street view.
4. It appears 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.
5. It appears granting the variance will not adversely affect the delivery of government services.

In summary, the variance requests do not appear to be substantial given the setbacks from the neighboring properties and the available screening. The applicant planned to install the fireplace and pergola in the location they actively use as a backyard since the front door faces Armscote End. Due to the definition of rear-lot line, the location of the pergola is in the side yard even though it is where the rear of the house is located. The request seems reasonable since the applicant intended on placing the pergola in the location which is normally used for outdoor living space. By locating the pergola and fireplace less than the required ten feet the applicant can enjoy both the fireplace and pergola at the same time. Moving the fireplace and pergola away from each other will likely result in the structures being closer to neighboring properties, and will likely hinder the homeowner's intended joint use of the structures. The pergola and fireplace appear to be well screened from neighbors and is not visible from the public street.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (conditions of approval may be added):

Move to approve application V-07-2018 based on the findings in the staff report.

Approximate Site Location:



Source: Franklin County Auditor



**Planning Commission Staff Report
February 21, 2018 Meeting**

**THE AVENUE
COVERED PARKING SETBACK VARIANCE**

LOCATION: Northeast corner of Smith's Mill Road and Forest Drive (PID: 222-000347).
APPLICANT: New Albany Healthcare Real Estate, LLC.
REQUEST: Variance
ZONING: Infill Planned Unit Development (IPUD) Canini Trust Corp subarea 8b

STRATEGIC PLAN: Neighborhood Retail District

APPLICATION: V-08-2018

Review based on: Application materials received January 19 and 26 2018.

Staff Report completed by Jackie Russell, Development Services Coordinator.

VII. REQUEST AND BACKGROUND

The applicant requests a variance for a covered parking structure at the Avenue development located in the Canini Trust Corp subarea 8b. The Avenue Development Final Development Plan, FDP-90-2017, was heard and approved by the Planning Commission on January 17, 2018. The Avenue is an 83,000 sf, two-story building with a total of 113 beds for a combination of assisted living, skilled nursing, memory care and independent living residents. The site is 8.4 acres and has 113 parking spaces. The variance application for the covered parking location is a condition of approval from the final development plan.

The variance requested is as follows:

- A. Variance for the construction of a covered parking structure that will encroach on the 100' building setback.

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

II. SITE DESCRIPTION & USE

The site is currently vacant and is located within the area known as the Canini Trust Corp subarea 8b. The site will encompass approximately 8.4 acres located at the northeast corner of Smith's Mil Road and Forest Drive. The Canini Trust Corp currently is home to the Dairy Queen, Turkey Hill, COTA park-n-ride facility, Hampton Inn and Suites, Marriott Hotel, Home2Suites by Hilton, 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.

- 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. RECOMMENDATION

Considerations and Basis for Decision

A. Variance for the construction of a covered parking structure that will encroach on the 100’ building setback. The following should be considered in the Commission’s decision:

1. The PUD zoning text states “Setback from Lots 1, 2, 4, 5, 6, 7, 8 and 9 of Plain View Country Estates for building and pavement shall be shown on the submitted preliminary development plan.”
2. The preliminary development plan shows a 100’ building setback and 65’ pavement setback from the above Plain View lots.
3. The applicant proposes to add covered parking over approximately 15 parking spots intended to serve the independent living residents in the rear of the building.
4. The applicant proposes to encroach 18’ +/- into the 100’ setback.
5. The structure will be made from a wood frame with shingles and brick at the base of the columns.
6. The applicant has submitted a justification statement to analyze the variance. The applicant states that the variance is not substantial as it is the secondary structure to the primary building, the variance will not adversely impact government services, and will be minimally visual to the adjoining properties due to the mound and landscaping as well as the public roads due to the orientation of the facility. The applicant’s full justification statement is located in the packets.
7. Staff shared the elevation of the proposed parking structure with the City Architect. He comments the overall design intent is consistent with the primary building. His comments are similar to the comments of the port-cochere on the primary building and that the columns are disproportioned, and they should be placed so that the exterior neck of column aligns with face of the architrave above. The city architect recommends the parking structure should be revised to have double columns or larger columns due to the visual expanse. Staff recommends a condition of approval requiring the columns’ design are corrected and double columns or wider columns are provided throughout the structure, subject to the City Architect’s approval.
8. The parking structure is encroaching approximately 18’ +/- into the 100’ setback. The city’s commercial zoning districts do not provide separate setback requirements for accessory structures so the same setback for primary structures also applies to this accessory structure.
9. The request does not seem to be substantial since it is not an enclosed structure. The location of the structure is located to provide minimal views from the public street and will be

screened from the residential homes by a mounding with landscaping.

10. The applicant states it does not appear the essential character of the neighborhood would be substantially altered or suffer a substantial detriment since there is a 5 – 7 foot mound with existing and additional landscaping to screen the view of the structure from the Plain View residences. Furthermore there will be limited views of the structure from the public roadways due to the orientation of the building. The height of the parking structure is 15 feet +/-, while the primary building is 37 feet +/-.
11. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity, in fact it may enhance the safety of the independent living patrons of the facility to have a place for their car to be covered from poor weather.
12. It appears granting the variance will not adversely affect the delivery of government services.

Staff recommends approval of the requested variance should the Planning Commission find that the application has sufficient basis for approval. Granting the variance for the parking structure allows for a safer, patient-friendly experience for the independent residents that live at the facility. Granting the variance will not adversely affect the delivery of government services or the health and safety of persons residing in the vicinity. The request does not seem substantial due to the location of the structure in relation to the building orientation, it is smaller scale accessory building, and it will be screened by a mound with new and existing landscaping on it.

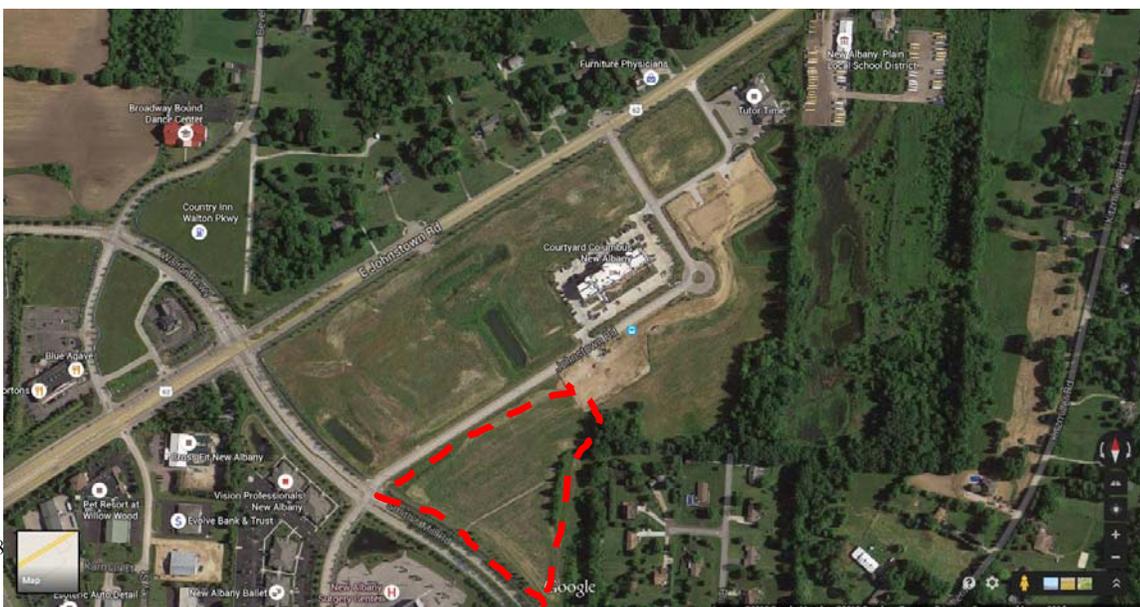
V. ACTION

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

Move to approve application V-08-2018 based on the findings in the staff report, with the following conditions of approval:

The columns' design are corrected and double columns or wider columns are provided throughout the structure, subject to the City Architect's approval

Approximate Site Location:



Source: Google Maps



**Planning Commission Staff Report
February 21, 2018 Meeting**

**WALTON OFFICES II
PRELIMINARY AND FINAL DEVELOPMENT PLAN**

LOCATION: East of New Albany-Conduit Road and north of Walton Parkway (PID:
222-003430)
APPLICANT: EMH&T c/o Matt Garver
REQUEST: Preliminary and Final Development Plan

ZONING: Comprehensive Planned Unit Development (C-PUD) – New Albany
Company PUD; Subarea 7C: Business Campus (Oak Grove West)
STRATEGIC PLAN: Freeway Office
APPLICATION: FDP-09-2018

Review based on: Application materials received January 19, 2018 and February 1, 2018.

Staff Report prepared by Jackie Russell, Development Services Coordinator.

VIII. REQUEST AND BACKGROUND

The applicant requests review and approval of a preliminary and final development plan for Walton Offices II. The development plan area consists of approximately 3.253 acres and contains a two story, 44,000 square foot office building. The site is located within Subarea 7C: Business Campus (Oak Grove West) of the New Albany Company C-PUD.

The applicant is concurrently requesting approval of variances for the proposed development. These are referenced in this staff report but are discussed in detail in a separate staff report.

II. SITE DESCRIPTION & USE

The site is located east of the existing Signature Office building at 8000 Walton Parkway and immediately east of the 8100 Walton Parkway office building along the north side of Walton Parkway and south of the Cedar Brook subdivision. The site is currently undeveloped and has frontage on Walton Parkway. It has visibility from the State Route 161 Expressway. The uses permitted in the OCD (Office Campus District) includes administrative, business and professional offices.

The final development plan site consists of a 2-story office building. Traffic access to the site will be served off of Walton Parkway from two existing curbcuts and a new curbcut to be located on the east side of the property.

A preliminary and final development plan was approved for the site on March 1, 2004 via application FDP-01-2004. This application included the majority of the subarea located north of Walton Parkway and consisted of six two-story office buildings, totaling 233,000 square feet of office space, with 1,053 parking spaces.

This proposed preliminary development plan will replace the remaining piece of the preliminary and final development plan approved in 2004 that proposed the development of two signature office buildings on the site. Per Codified Ordinance 1159.09(e) “at any time, the applicant and/or his/her successors in title to the property may submit an amended Preliminary Development Plan. In such event the same procedures shall be followed as in the case of an original Preliminary Development Plan and if approved such amended Preliminary Development Plan shall in all respects be considered as if it were the originally adopted Preliminary Development Plan.”

III. PLAN REVIEW

Review is based on zoning text, and planning, subdivision and zoning regulations, including the design standards. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

A. Site and Layout

1. The preliminary and final development plan contains approximately 3.253 acres and will contain a 44,000 square foot office building and add 196 new parking spaces.
2. The site is set up similar to Water's Edge in that the parking is designed to be shared between neighboring structures.
3. Zoning Text section 7c.01 contains various building and pavement setbacks from the centerline of the public rights-of-way. The table below contains the setback distances.

| Setback Regulation | Required | Proposed | Standard Met? | Comments |
|---|----------------|--------------------------------------|---------------|---|
| Walton Parkway building setback | 65 ft from C/L | 65 +/- ft from C/L | Yes | This is the same setback as the building to the west. |
| Walton Parkway pavement setback | 65 ft from C/L | 181 +/- ft from C/L | Yes | |
| Northern property line (Cedar Brook) building setback | 120 ft | 291 +/- ft | Yes | This is the same setback as the building to the west. |
| Northern property line (Cedar Brook) pavement setback | 50 ft | 52 +/- ft | Yes | This matches the existing parking lot. |
| Side yard building setback | 30 ft | 85 +/- ft (west) 65 +/- ft (east) | Yes | |
| Side yard pavement setback | 15 ft | 0 ft (west) 15 +/- ft (east) | NO | Variance Requested |
| Open Space buffer along Northern Property Line | 50 ft | 52 +/- ft | Yes | |

4. The office building will be located along Walton Parkway with parking located in the rear of the site.
5. A maximum of 80% lot coverage is allowed on the site. The proposed lot coverage for this development is 67%, below the allowable lot coverage.

B. Access, Loading, Parking

Parking

1. Zoning Text section 7c.02 states parking shall be required per the City's Parking Code found in Codified Ordinance Chapter 1167 and the parking and loading requirement of Chapter 1144.03(h)1, 2, & 3. (Note: Chapter 1144.03(h) is now 1144.04(h).)
 - a. The city's parking code (C.O. 1167.05(d)(17)) requires 1 space for each 250 square feet of office space. Therefore 176 parking spaces are required. The applicant is providing 196 new parking spaces.
 - b. The applicant meets the standards found in Chapter 1167.03(a) requiring the parking lot drive aisles to be a minimum of 22 feet wide.
2. Parking will be shared between this building and the two neighboring Walton Office buildings via cross access easements. An existing cross access agreement exists both at the north of the property and to the south of the property. The applicant is proposing to vacate portion of the northern cross-access easement and the entire southern cross-

access easement. Staff recommends a condition of approval requiring the existing cross-access easements which could facilitate future connections to the undeveloped parcel to east be left intact. Staff recommends the only portion of the cross access easements to be vacated is the portion of the southern easement which is covered by the proposed building location to ensure traffic can circulate throughout the entire business campus site and provide connections to further development to the east.

Circulation

1. The property will be sufficiently served by two entrances from Walton Parkway. The Walton Office I building has a shared drive with the Signature Office Building and a new curbcut is to be added on Walton Parkway with this development. The drive aisles serving these main circulation routes are a minimum of 22 feet wide to effectively circulate traffic through the site. There is an existing leisure trail along Walton Parkway.

Loading and service areas

1. Per Codified Ordinance 1167.06(b)(2) No loading space is required for office buildings between 0 and 50,000 square feet.

C. Architectural Standards

1. Zoning Text section 7c.03(1) requires the building be sited with the longest and/or most predominant building façade parallel to a major street. Additionally, the New Albany Design Guidelines and Requirements require the building have an active and operable front door along all public and private roads. The application meets all the requirements by designing the building to front Walton Parkway with doorways on both the front and rear elevations.
2. Exterior building materials are limited to brick as the predominant material with precast cut stone or synthetic accents above the first floor per Zoning Text section 7c.03(3). The proposed building is predominantly brick with stone and metal coping at the top of the building. The Planning Commission should confirm with the applicant that the brick is the same brick that was used at Walton Office I.
3. This building contains the same level of ornamentation and exterior architectural detailing as the neighboring Walton Office Building. These detailings include small protruding brick columns, stone coping, and an additional metal wing on the east side of the building. Staff is supportive of the architecture as it makes the buildings feel more distinctive and matches the neighboring site creating a cohesive campus.
4. Flat roofs are permitted but must have a parapet or other means of screening all rooftop mechanical equipment. All rooftop screens must be consistent and harmonious to the building's façade and character. Staff recommends condition of approval that all rooftop equipment is completely screen on all four sides, subject to staff approval.
5. The proposed building (excluding metal screen walls) is approximately 29 feet and 10 inches tall. The zoning text requires that the building height be no greater than 45 feet.

D. Buffering, Landscaping, Open Space, Screening

1. Landscaping for the site has been designed to be a continuation of the landscape installed at the neighboring Signature Office Building and the Walton Office I site to the west.
2. There is a text commitment to provide 8% interior parking lot landscaping on the site. The proposed plan indicates 8% interior parking lot landscaping is provided.
3. Street trees and standard white horse fence are already installed along Walton Parkway.
4. Zoning Text section 7c.04(1)(d) requires the property line to have a 50 foot wide buffer strip containing a 5-6 foot high earth mound. Additionally, Zoning Text

section 7c.04(5)(c) requires no existing trees within the setback zones shall be removed or destroyed unless they interfere with utilities and/or curbcut locations. The development plan shows a 52 foot wide buffer zone with a four foot high mound to be located along the northern property line where the tree existing tree canopy is illustrated via a bubble. The applicant has requested a variance to mounding height requirements.

5. Zoning Text section 7c.04(1)(d) requires the northern buffer strip must contain a double row of staggered pines spaced 12 feet on center along the northern edge of the buffer strip. Along the south side of the buffer strip, deciduous and evergreens shall be planted at a standard of 8 tree per 100 linear feet. The applicant has requested a variance to this landscaping requirements.
6. The City Landscape Architect has reviewed the landscape plan and commented the following and can also be found under a separate cover from MKSK:
 - a. Remove proposed Serviceberry ornamental trees around the detention basin.
 - b. The detention basin should be planted with randomly spaced large, deciduous shade trees. See attached memo.
 - c. Add parking lot island and tree to the northern edge of the parking lot. Align placement and size of the new island with proposed islands to the south. Tree selection should Prospector Elm to match existing northern tree islands in Phase 1. See attached memo.
 - d. Relocate trees along eastern border of parking lot to the east. Fill in vacant area with proposed evergreen shrubs to create a continuous evergreen parking lot screen. See attached memo.
 - e. Remove sod from large, latitudinal parking lot island and replace with proposed compact cranberry bush to match latitudinal island in Phase 1. See attached memo.
7. Staff recommends a condition of approval that the City Landscape Architect's comments are addressed.
8. The applicant is proposing a dry pond to be located on the west side of the property between Walton Office I and the proposed Walton Office II building.

E. Lighting and Signage

1. The exact design of signage will be determined by tenants in the building. No signage has been submitted with this application. Staff recommends future signage is subject to staff approval.
2. The proposed parking lot light fixture is the same parking lot light fixture installed at the Signature Office Building. The submitted photometric plan shows there is no spillage on the public rights-of-way and Cedar Brook properties.

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 have no comments at this time.
2. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

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

V. RECOMMENDATION

The development plan is consistent with the purpose and standards of the zoning code and applicable PUD development texts by locating the building closer to Walton Parkway and locating parking in the rear of the site. Furthermore, the building appears to be appropriately located since it further from residential uses and closer to State Route 161. By incorporating

staff's recommendation for the cross access easement to remain the site will be prepared for access between future developments.

The proposed exterior of the building appear to mirror Walton Office I and complement the Signature Office Building. The proposed building design incorporates additional ornamentation and vertical architectural elements and creates a more distinctive look and to creates a campus feel.

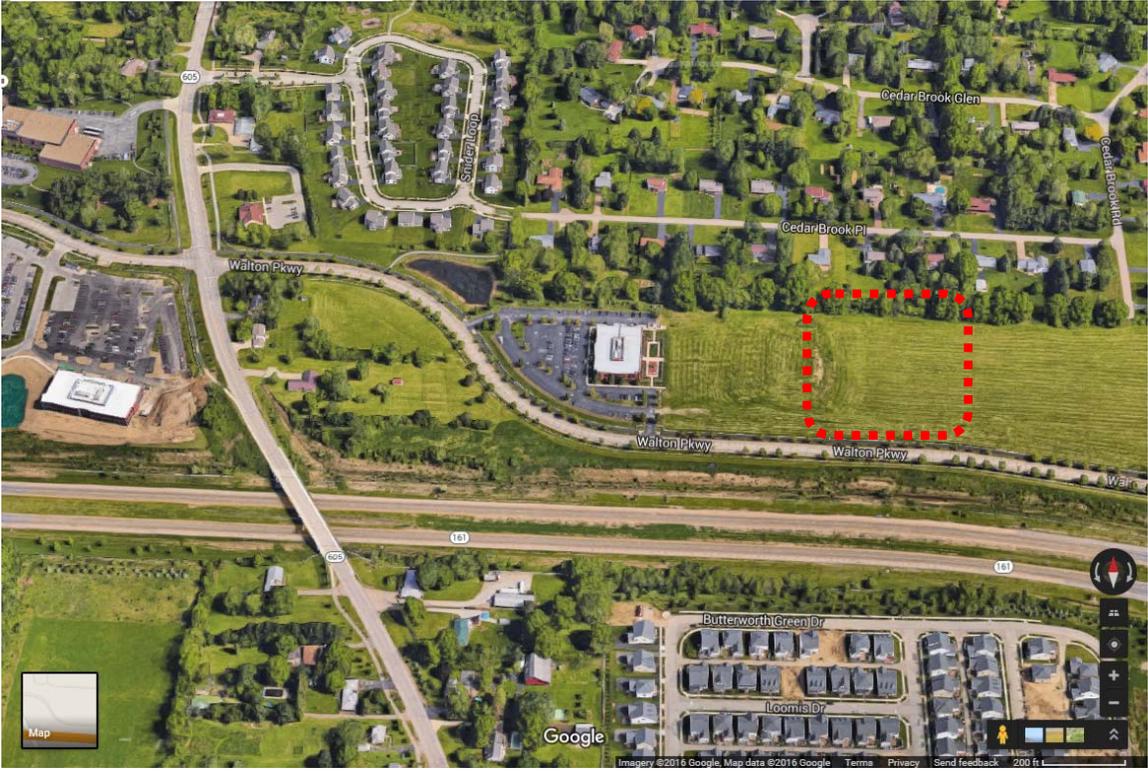
V. ACTION

Suggested Motion for PDP/FDP-09-2018:

To approve Preliminary and Final Development Plan application FDP-09-2018, subject to the following conditions all subject to staff approval:

1. Cross access easements for the shared access drive and to share parking between the buildings to the east and west should remain, except for the portion of the southern easement which is covered by the proposed building.
2. Address the comments of the City Landscape Architect.
3. Address the comments of the City Engineer.
4. All rooftop equipment is completely screen on all four sides, subject to staff approval.
5. Signage is subject to staff approval.

Approximate Site Location:



Source: Google Maps



WALTON OFFICES II
VARIANCES

LOCATION: East of New Albany-Conduit Road and north of Walton Parkway (PID: 222-003430 and 222-004465)
APPLICANT: EMH&T c/o Matt Garver
REQUEST: Variances
ZONING: Comprehensive Planned Unit Development (C-PUD) – New Albany Company PUD; Subarea 7C: Business Campus (Oak Grove West)
STRATEGIC PLAN: Freeway Office
APPLICATION: V-10-2018

Review based on: Application materials received January 19 and February 1, 2018.

IX. REQUEST AND BACKGROUND

The applicant requests multiple variances from the New Albany Company C-PUD Subarea 7C: Business Campus zoning text and the city’s Codified Ordinance for the development of Walton Office I. The preliminary and final development plan area is approximately 3.253 acres and will contain a 44,000 square foot building and an associated 196 space parking area. The zoning text specifies that variance requests be heard by the Planning Commission instead of the Board of Zoning Appeals.

The variances requested are as follows:

- A. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(1)(d) to allow the northern buffer strip to have a 3-4 foot high earth mound with landscaping where code requires a 5-6 foot high earth mound to match the existing landscaping to the west.
- B. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(1)(d) to reduce the landscaping at the northern buffer strip, which is required to contain a double row of staggered pines spaced 12 feet on center along the northern edge of the buffer strip and deciduous and evergreens to be planted at a standard of 8 trees per 100 linear feet along the south side of the buffer strip, to allow continue the treatment at the Walton Office I building with the density six spruce trees and to utilize existing landscaping.
- C. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.01(1) to reduce the minimum side yard pavement setback from 15 feet to zero (0) feet to the west side yards.
- D. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(2)(a) to eliminate the requirement that side yard setback areas contain mounding with a mixture of deciduous shade trees and evergreen trees and shrubs.

II. EVALUATION

The application complies with 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.

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.*

III.RECOMMENDATION

Considerations and Basis for Decision

A. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(1)(d) to allow the northern buffer strip to have a 4 foot high earth mound where code requires a 5-6 foot high earth mound.

The following should be considered in the Planning Commission’s decision:

1. Zoning Text section 7c.04(1)(d) requires the property line to have a 50 foot wide buffer strip containing a 5-6 foot high earth mound. The applicant proposes a three to four foot high earth mound across the entire buffer strip. The applicant states that they are seeking the variance to match the existing landscaping to the neighboring property to the west. The site contains a mature tree line along the rear of the Cedar Brook residences and the buffer area

on this site. In order to increase the mound's height and maintain the slope of the mound it would require more land and this could impact the existing trees.

2. The variance does not appear to be substantial and preserves the "spirit and intent" of the zoning requirement since the likely objective of the requirement is to screen cars and their headlights. City code requires a minimum height of four feet of landscaping, mounding, or walls to screen vehicles from streets and neighboring properties. The four foot tall mound with additional landscaping on top appears to adequately screen vehicle headlights from Cedar Brook residences.
3. 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.
4. The same variance request was reviewed and approved by the Planning Commission for the neighboring property. At that time the Planning Commission placed a condition of approval requiring the mounding height shall be sensitive to headlight screening and pavement elevation particularly along the main drive aisles. Staff recommends this same condition is placed on this development.

In summary, staff supports this variance request for a reduction in the minimum mounding height from five feet to four feet. The variance preserves the "spirit and intent" of the zoning requirement since the likely objective of the requirement is to screen cars and their headlights. For this reason the request does not seem substantial.

B. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(1)(d) to reduce the landscaping at the northern buffer strip, which is required to contain a double row of staggered pines spaced 12 feet on center along the northern edge of the buffer strip and deciduous and evergreens to be planted at a standard of 8 trees per 100 linear feet along the south side of the buffer strip, to allow six spruce trees and to utilize the existing landscaping.

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

1. Zoning Text section 7c.04(1)(d) requires the northern buffer strip must contain a double row of staggered pines spaced 12 feet on center along the northern edge of the buffer strip. Along the south side of the buffer strip, deciduous and evergreen trees shall be planted at a standard of 8 trees per 100 linear feet.
2. The applicant states the proposed buffer strip will continue the landscaping density from the adjacent property at 8100 Walton Parkway. The applicant proposes to install a total of six (6) evergreens in the south side of the buffer strip.
3. The property is approximately 316 feet long in the buffer strip area. Eight trees per 100 linear feet results in 26 trees being required along the south side of the buffer strip. Additionally, along the northern edge of the buffer strip, a double row of staggered pines spaced 12 feet on center results in 27 trees being required.
4. When reviewing the neighboring development's (8100 Walton Parkway) final development plan, staff visited the 8000 Walton Parkway site and counted 19 trees (mix of deciduous and pine) in the buffer strip that appear to have been planted when the site was developed. This equates to approximately five trees per 100 linear feet. Staff recommends this same planting density (minimum of 5 trees per 100 feet) is installed within the buffer strip at this site. This would require approximately 16 trees to be installed. The applicant has matched this appropriate density.
5. The site contains a mature tree line along the rear of the Cedar Brook residences and the north side of the buffer strip. Staff cannot determine if the trees are on the Cedar Brook or

New Albany Company property. The drip line (canopy) of the existing trees may prevent or negatively impact additional landscaping on the north side of the buffer strip.

6. The same variance request was reviewed and approved by the Planning Commission for the neighboring property. At that time the Planning Commission placed a condition of approval requiring the final determination of the trees required to be planted be provided by the city landscape architect to ensure there were no gaps and the new landscaping sufficiently filled in, around the existing tree line. Staff recommends this condition.
7. The south side of the buffer strip, adjacent to the parking lot, does not appear to have any impediments to installing landscaping.
8. The “spirit and intent” of this regulation is likely to screen the building from the residences to the north. However there appears to be a large amount of young and mature trees existing on the site that provides screening.
9. The applicant must extend the sanitary line that runs within this buffer strip. While impacting the existing trees is not anticipated, staff recommends a condition of approval that any impacted trees in the buffer strip are replaced.
10. 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, the variance request is really two parts: (1) the required landscaping on the north side of the buffer strip and (2) required landscaping on the south side of the buffer strip. The applicant has proposed to copy the treatment of landscaping at the ratio of 5 trees for every 100 feet. The applicant has also proposed to mirror the treatment on the south side of the buffer strip to include six (6) evergreen trees. Staff is supportive of the variances since the “spirit and intent” of this regulation is to screen the building from the residences to the north. It appears this being accomplished despite the modifications. Staff is also supportive of the variance since it will help to maintain the cohesive campus atmosphere.

C. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.01(1) to reduce the minimum side yard pavement setback from 15 feet to zero (0) feet on the west side yards.

D. Variance to the New Albany Company; Business Campus District (Subarea 7C- Business Campus (Oak Grove West) PUD section 7c.04(2)(a) to eliminate the requirement that side yard setback areas contain mounding with a mixture of deciduous shade trees and evergreen trees and shrubs.

The following should be considered in the Planning Commission’s decision:

1. The requested variance will remove the required interior western pavement side yard setback to allow for zero (0) lot line development on this parcel within development plan’s area. Zero lot line development will allow the site to be owned by several different owners but still maintain a comprehensive feel.
2. Zoning Text section 7c.04(2)(a) requires landscaping within the setback areas for side lots shall contain a minimum of a 4 foot earth mound, having a minimum width of twenty feet beginning at the side property line. Two adjoining parcels may combine their mound to have one 4' high mound. The mound shall be planted with a mixture of deciduous shade trees and evergreen trees and shrubs.
3. The applicant states the proposed development is part of a master planned area that is set up with access easements and shared parking. The proposed parking lot continues to the west

to connect to the existing parking lot of Walton Office one. To the east a future building could be developed and would require the mounding to be removed in the future, if it was installed. As such, the applicant proposes to not install the mounding and landscaping between the sites on both the east and west.

4. Without these variances the parking area would not be able to be shared among users of the different buildings. The sharing of parking areas and detention areas is a key recommendation of the city's strategic plan.
5. The property owner may have purchased the property with the knowledge of the zoning restriction; however, the proposed variance would allow for a more desirable site plan for the property than the existing zoning setback restrictions by creating a continuation of phased sites resulting in one cohesive site design.
6. The applicant states the proposed development is part of a master planned area and the adjacent sites will be of similar use. The applicant states there will be landscaping consisting of shrubs and trees which will remain until a future development occurs.
7. The same variance was granted for Water's Edge campus, and the Walton Office I building. Approving the variance request will allow this site to appear as a continuation of the Signature Office Building and Walton Office I building as well as any other future phases.
8. 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 these variance requests for a reduction in the western side yard pavement setbacks and to eliminate the landscaping requirements. The variances do not appear to be substantial since zero lot line development will allow the site to be owned by several different owners but still maintain a comprehensive feel. Without these variances the parking area would not be able to be easily shared among users of different buildings. The sharing of parking areas is a key recommendation of the city's strategic plan. The proposed variance would allow for a more desirable site plan for the property than the existing zoning setback restrictions by creating a continuation of multiple phases resulting in one cohesive site design.

III.ACTION

Suggested Motion for V-10-2018 (the variances may be considered together or separately and acted on as one motion or five separate motions):

To approve variance application V-10-2018 subject to the following conditions, all subject to staff approval:

1. If FDP-09-2018 is not approved the variance shall become null and void.
2. Any impacted trees in the buffer strip are replaced.
3. Mounding height shall be sensitive to headlight screening and pavement elevation particularly along the main drive aisles
4. 5 trees per 100 feet are installed within the buffer strip at this site. Final determination provided by the city landscape architect.

Approximate Site Location:



Source: Google Maps