



Planning Commission

Meeting Minutes

February 20, 2019

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 7:01 p.m.

Neil Kirby	Present
Brad Shockey	Absent
David Wallace	Present
Hans Schell	Present
Andrea Wiltrot	Present
Sloan Spalding (council liaison)	Present (arrived 7:04)

Staff members present: Mike Barker, Engineer; Jackie Russell, Development Services Coordinator; Chris Christian, Planner; Mitch Banchefsky, City Attorney; Ed Ferris, Engineer; and Pam Hickok, Clerk.

Moved by Mr. Wallace, seconded by Ms. Wiltrot to approve January 23, 2019 minutes, as corrected. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrot, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0.

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

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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. (no response)

V-11-2019 Variance

Variances to C.O. 1155 for floodplain encroachment at the All About Kids site located at 96 N. High Street.

Applicant: City of New Albany

Mr. Chris Christian introduced the applications and provided background for both cases.

Mr. Mike Barker presented the staff report and explained the code conflicts.

Mr. Wallace asked if the building would have been moved south if the road was not proposed and then would not have needed to encroach into the flood plain.

Mr. Barker explained the variances and continued with the staff report.

Mr. Wallace asked if this board will hear any other applications for this project.

Ms. Russell responded that in the village center the process requires ARB approval and this board would not have heard anything if it did not need the variances.

Mr. Barker continued with the staff report.

Ms. Wiltrot asked what the base flood elevation, review process and the impact?

Mr. Barker stated that they are still working on this and do not think we will see an impact. It will be quantified it will be inches. The spirit of the flood plain code was intended to address more so the large developments and to minimize the impact. This is a very defined deep drainage ditch and steep side slopes, this was not the character that we were intending to preserve.

Mr. Schell asked about flood insurance and are we putting them in jeopardy.

Mr. Barker stated that this is not a FEMA studied stream. I am not sure the technicalities within the insurance. Internally we understand that all streams has an associated floodway.

Mr. Schell stated that the applicant should check with the insurance agent for any restrictions.

Mr. Barker continued with the staff report.

Ms. Wiltrot asked if the variance runs with the lot. I am looking at the playground area and if we approve the variance could they change that area.

Mr. Barker stated that the site plan will be attached to the variance. If there was a change to the flood plain we would require a flood plain permit.

Ms. Russell stated that any changes would require a new variance.

Mr. Kirby asked for further engineering.

Mr. Ferris stated none.

Mr. Kirby asked if condition three would continue to another property owner.

Mr. Barker stated that is important because we wouldn't want mulch washing into the creek.

Mr. Kirby asked if they have a lot coverage limit.

Ms. Russell stated that they are permitted 100% lot coverage.

Mr. Kirby asked if we can add numbers to condition two.

Mr. Barker stated yes, I would expect a matter of 1-2 inches.

Mr. Kirby stated that the number needs to be run by the neighbors and say what happens if this bumps up two inches and meeting that number. It can't be damaging to the neighbors and has to be able to be met.

Mr. Barker stated those are the specific parameters that we will reviewing in detail as part of the evaluation.

Mr. Kirby asked if Council sees this.

Mr. Barker stated correct.

Mr. Kirby asked if he was comfortable with 2 inches.

Mr. Barker stated yes.

Mr. Kirby stated that we can add the hard limit on the impact by adding 2 inches to the condition.

Mr. Wallace asked how will this development change the base flood elevation.

Mr. Barker stated that within the red lines there is an amount of water that can be held. When you put any fill in that area you are reducing the volume because you are reducing the amount of space water can be held in.

Mr. Wallace asked if we are reducing the volume by 2 inches.

Mr. Barker stated that they are providing compensatory storage. (shown on the map) The volume will exceed the existing flood plain volumes. They will have a series of underground chambers, design is still pending.

Mr. Wallace asked if the same volume of water will be stored over here why does it make a difference.

Mr. Barker stated that it changes the hydraulics - the water flow will be different.

Mr. Wallace asked if the new ordinance is to prevent the building in the floodplain or to prevent damage to the floodplain.

Mr. Barker stated both, not sure which is priority.

Mr. Wallace stated that we don't want this to change but in order to build the building it must change.

Mr. Barker stated that the primary intent of the code is to ensure the safety and welfare of the public is being maintained. The impacts that are proximate to the stream areas need to be heavily scrutinized as part of any development project.

Mr. Kirby asked if they are affecting the rear of the property.

Mr. Barker showed on the map and explained the area of disturbance.

Mr. Wallace asked what study are we waiting on.

Mr. Barker stated hydraulic study that will determine the impact to the base flood elevation. The other items are just conditions of approval.

Mr. Wallace stated that it is bothering me that we are voting on a variance with information that is underway that seems to be important that we don't know at this time.

Mr. Kirby stated that is why I added the 2" in the condition so they need to meet that number.

Mr. Wallace stated that we have covered that with the condition.

Mr. Kirby asked who the applicant is?

Mr. Barker stated that city is the applicant.

Mr. Kirby stated that I would typically ask who has control of the property. Do we have agreement from the owners that this is something they want and we have permission to speak for them without having a representative from the company available.

Mr. Banchefskey stated that the city is the applicant because it's the city's desire to develop the street and we are putting the burden on the property owner.

Ms. Russell stated that we have an application with both the owner's signature and the applicant.

Mr. Barker stated that we also have a memorandum of understanding that has been signed by the city and the owner.

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

Mr. Kirby moved to approve V-11-2019 subject to the following conditions:

1. Fill placement associated with the permitted uses within SFHA's must be placed outside of the SCPZ to the greatest extent practical subject to staff approval. This fill must be compensated for by removing material equal to one hundred five percent (105%) or greater than the fill placed.
2. There may only be 2" or less increase in the base flood elevation resulting from this variance and it be subject to staff approval.
3. The portion of the playground area within the floodplain must have a grass ground cover. No mulch or similar material is permitted, seconded by Ms. Wiltrot. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrot, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0.

Mr. Wallace asked Mr. Banchefsky if we needed further discussion regarding the basis of approval based on the recent case law discussed at the last meeting. Mr. Banchefsky said no.

PL-8-2019 Final Plat
Final Plat for Miller Avenue Extension.
Applicant: City of New Albany

Mr. Christian presented the staff report.

Mr. Ferris stated no engineering comments.

Mr. Kirby asked for public comments

Mr. Fred Seemann, 34 Miller Avenue, asked about the timing of this project.

Mr. Barker stated that we will be bidding within the next 30-45 days. It will be constructed over the summer and complete before school starts for this portion. This project will have a few different pieces including the roadway extension which will be about 250 feet in length, improvements on the school campus and improvement on High Street.

Mr. Seemann asked if the road will connect to the existing Miller Avenue.

Ms. Russell explained that it is in the planning document have envisioned as a connection between High Street and Main Street. It is not feasible at this time but this is the safest connection that can occur for these property owners and to align the school entrance.

Mr. Barker stated that the maps that we have here are conceptual roadway alignments and we use them as a map as development opportunities arise.

Mr. Kirby stated that the road will touch your side property line. You have a new road frontage, for whatever that is worth. Don't worry about it coming through your house. You own your property until you decide for that to happen. The city generally doesn't do eminent domain.

Mr. Wallace asked why the right of way narrows.

Mr. Barker stated that we expect parallel parking spaces on the west end on the south side of the street.

Mr. Schell asked what is the Animals-R-Special motivation.

Mr. Barker stated that they are having parking issues. So the parallel parking spaces and becoming a corner lot is appealing.

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

Mr. Schell moved to approve FPL-2019-0008, seconded by Ms. Wiltrot. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrot, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0.

Formal Vote of Changes to Codified Ordinances Section 1179 – Wireless Telecommunication Facilities

Ms. Russell stated that staff met with Mr. Wallace to discuss this code change. We provided the proposed changes discussed to the Law Director and consultants at Ice Miller. Staff is requesting to table to allow time to work through comments received.

Mr. Kirby moved to table until next regular meeting, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrot, 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 7:54 p.m.

Submitted by Pam Hickok

APPENDIX



Planning Commission Staff Report February 20, 2019 Meeting

ALL ABOUT KIDS DAYCARE AND OFFICE SPACE FLOODPLAIN VARIANCES

LOCATION: 96 N. High (PID: 222-000080)
APPLICANT: City of New Albany, Ohio
REQUEST: Variances
ZONING: Urban Center District within the Historic Center Subarea
STRATEGIC PLAN Village Center
APPLICATION: ARB-56-2018

Review based on: Application materials received November 20, and 30, 2018.

Staff Report completed by Michael Barker, Engineer & Stephen Mayer, Development Services Manager

I. REQUEST AND BACKGROUND

The applicant requests variances to allow for the All About Kids development consisting of a day care on the first floor and office space on the second floor.

The variances requested are as follows:

- A. Variance to Codified Ordinance 1155.04(a)(2)(c) to allow a commercial development within the special flood hazard area where city code prohibits it.
- B. Variance to Codified Ordinance 1155.04(c)(8) to allow a commercial development to be setback zero feet from the special flood hazard area where code requires a structure's foundation walls must be set back a minimum distance of twenty (20) feet from the edge of SFHA's.

Codified Ordinance Chapter 1105.05(a)(2) states the City Planning Commission shall hear and consider variances in accordance with Section 1155.05(c) of the city's floodplain ordinance regulations.

Per C.O. 1155.05 of the city's floodplain ordinance the Planning Commission shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations and as otherwise set forth in Chapter 1113 of the New Albany Codified Ordinances.

II. SITE DESCRIPTION & USE

The city's Architectural Review Board approved a Certificate of Appropriateness and waiver application to allow the proposed development on November 8, 2018 via application ARB-56-2018.

The site is zoned UCD Urban Center District, within the Historic Core Sub-district and is within the Village Center District. There are currently no existing structures on site. The site is 1.022 +/- acres.

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.

IV. EVALUATION

Considerations and Basis for Decision

- A. Variance to Codified Ordinance 115.04(a)(2)(c) to allow a commercial development within the special flood hazard area where city code prohibits it.**
- B. Variance to Codified Ordinance 1155.04(c)(8) to allow a commercial development to be setback zero feet from the special flood hazard area where code requires a structure's foundation walls must be set back a minimum distance of twenty (20) feet from the edge of SFHA's.**

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

1. The city's Architectural Review Board approved a Certificate of Appropriateness and waiver application to allow the proposed development on November 8, 2018 via application ARB-56-2018. Since the Architectural Review Board's approval of the site, the applicant has submitted private site improvement plans (engineering plans) for the site. At this point the encroachments into the floodplain were discovered.
2. These engineering plans are required to include final grades and detailed drainage information which includes flood zones, whereas the city's ARB reviews site design and layout prior to the engineering work.
3. During the city's review of the engineering plans for the site these requested variances are necessary in order to develop the site as recommended by staff for the public streetscape installation and the city's ARB.
4. The city's Urban Center Code and Village Center Strategic Plan recommend Miller Avenue be extended west to intersect with High Street. As part of this development, the property owner has agreed to dedicate to the city a portion of the right-of-way necessary to have Miller Avenue intersect with High Street.
5. The special conditions and circumstances do not result from the action of the applicant. The city of New Albany is the applicant on behalf of the property owner and developer since this variance is required due to the city's public infrastructure project.
6. The city is working cooperatively with the property owner dedicate 23.75 feet of right-of-way along the property's entire southern property line. In doing so the development was required to slide all the improvements to the northern side of the property.
7. The variance preserves the "spirit and intent" of the zoning requirement and "substantial justice" will be done by granting the variance. The variance is necessary at the request of city staff in order to accommodate a new extension of Miller Avenue from High Street to establish a future connection to the existing Miller Avenue. This is identified as a future connection in the 2006 Village Center Strategic Plan and the in the Urban Center Code. This connection is an important roadway to gain additional connections in the Village Center. These planning documents support denser development in the Village Center. The nature of development for certain projects in the Village Center, especially here within the historic Village Center, will require some impacts and variances to the city's floodplain ordinance in order to meet the recommendations found in these documents.
8. The variance does not appear to be substantial. The development within the floodplain is

- minimal. The applicant proposes to do limited filling in order to grade the area for use of a playground and will plant trees. The floodplain will include a simple black, vertical fence. A limited section of the floodplain will have a sidewalk installed that runs immediately along the outside of the building in order to connect exterior door. The developer has committed to keep the portion of the playground, that is within the floodplain, to be a grass ground cover, and to not use mulch or a similar material. Staff recommends this be a condition of approval.
9. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment by granting the variance. While this waterway conveys stormwater and has an associated floodplain, it is not a natural stream. The intent of the floodplain ordinance is to protect riparian area of a natural stream. This waterway is a steep banked dredged, V-cut channel man-made, specially to convey water and does not appear to be an environmentally sensitive or natural area. There are trees on both sides of the waterway, however, any impacts to trees will be limited and occur on the private side (not along the public street), therefore it does not appear the essential character of the neighborhood will be substantially altered or adjoining properties will suffer a “substantial detriment by granting the variance.
 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 does not appear the variance would adversely affect the delivery of government services.

In addition to the criteria for granting variances set forth in Chapter 1113 of the New Albany Codified Ordinances, a variance shall only be issued upon:

- 1. A showing of good and sufficient cause.*
 - a. The location of the building is due to the city's desire to construct a new public street along the south side of the property. Therefore variance is necessary at the request of city staff in order to accommodate a new extension of Miller Avenue from High Street to establish a future connection to the existing Miller Avenue. This is identified as a future connection in the in the 2006 Village Center Strategic Plan and the in the Urban Center Code. This connection is an important roadway to gain additional connections in the Village Center.
 - b. The developer has submitted a signed right-of-way dedication agreement ensuring 0.256 acres of land will be provided to the city for the Miller Avenue construction project.
- 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.*
 - a. During the preliminary planning stages of this project between the private developer and city staff, various road alignments were considered for Miller Avenue to determine the optimal location on the east side of High Street. Two limiting physical factors were the ditch and ensuring this new connection aligns with the school's curb cuts onto High Street. The current layout is fair since it allows the city to receive right-of-way from two separate owners, instead of

putting all of the burden on one property owner which would result in exceptional hardship due to the amount of right-of-way needed versus the small size of the lot.

3. *A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.*
 - a. The private site engineer is evaluating the ditch section for changes to the elevation based on the improvements to the lot. Staff recommends a condition of approval there may only be a negligible, if any, increase in the base flood elevation resulting from this variance and it be subject to staff approval.
4. *A determination that the structure or other development is protected by methods to minimize flood damages.*
 - a. The private site engineer has indicated to staff the final footing elevation of the building will be greater than 18 inches above the 100 year floodplain area. The minimum height required by city code is 18 inches.
5. *A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
 - a. It appears the variance is the minimum necessary, considering the flood hazard, to afford relief. The special flood hazard area is located only on a small portion of the property at the northwest. The proposal is the minimum needed to grade the playground area.
 - b. The City's Urban Center Code requires buildings fill a certain percentage of the lot's frontage. Therefore city code required the applicant to do additional building development within the floodplain area. However, the city's ARB reviewed and approved a waiver to allow the building to be setback further from the north property line (28.5 feet) than what allows (maximum 20 feet setback).

Plus these other Conditions for Variances (C.O. 1155.05(d)):

1. *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
 - a. Based on initial engineering of the site, it does not appear there will be any increase in flood levels resulting from this variance. Staff recommends a condition of approval there may only be a negligible, if any, increase in the base flood elevation resulting from this variance and it be subject to staff approval.
2. *Generally, variances may be issued for substantial improvements to be erected on a lot of one and a half (1.5) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one and a half (1.5) acre, the technical justification required for issuing the variance increases.*
 - a. The lot will be 0.766 acres after the right-of-way dedication.
 - b. The immediate area consists of parcels less than 1.5 acres in size that are constructed below the base flood level. 108 N High Street which consists of two parcels immediately to the north is constructed below the base flood level and is a 0.23 acres total.

- c. Based on the existing conditions this variance meets the additional considerations in order to allow for little technical justification required for issuing the variance. Staff is supportive of the variance.
 - d. This exception, or additional consideration, to the floodplain ordinance requirements was placed in the ordinance because the code is intended for larger scale developments on large tracts of land. The city's planning policies and documents support denser development within the Village Center where typical lot sizes are less than 1.5 acres.
3. *Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.*
- a. Not applicable since the building will be built above the 100 year floodplain.

V. CONCLUSION & RECOMMENDATION

Staff recommends approval of the requested variance should the Planning Commission find that the application has sufficient basis for approval. The variance request does not appear to be substantial since there will be a negligible net effect to the floodplain on this and surrounding properties. Furthermore, the city is working cooperatively with the property owner to dedicate 23.75 feet of right-of-way along the property's entire southern property line. In doing so the developer was required to slide all the improvements to the northern side of the property. This was at the request of the city in order to locate the new public street in an optimal and fair location so as not to overburden any single landowner.

The overall site is meeting an important, long term goal of the city's strategic plan and urban center code by accommodating the Miller Avenue Street extension. City staff is coordinating with the this property owner, adjacent property owner to the south, and the New Albany Plain Local School District to install a public street that will serve as an extension of Miller Avenue. Existing Miller Avenue and the proposed extension will not connect initially, but establishing this segment will provide for a future connection in order to create a lot and block system in the historic Village Center.

The variance appears to meet the stated purposes of the city's floodplain regulations which are to promote the public health, safety and general welfare by preventing floodplain uses that are either hazardous or environmentally incompatible; minimizing the impact of development on adjacent properties within and near flood prone areas; and ensuring that the flood storage and conveyance functions of the floodplain are maintained.

VI. ACTION

Move to accept the staff report and all other related documents into the record for application V-11-2019.

Per Codified Ordinance 1155.05, upon consideration of the above factors and the purposes of these regulations, the Planning Commission may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations. Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve application V-11-2019 based on the findings in the staff report with the following conditions, subject to staff approval:

1. Fill placement associated with permitted uses within SFHA's must be placed outside of the SCPZ to the greatest extent practical subject to staff approval. This fill must be compensated for by removing material equal to one hundred five percent (105%) or greater than the fill placed.
2. Staff recommends a condition of approval there may only be a negligible, if any, increase in the base flood elevation resulting from this variance and it be subject to staff approval.
3. The portion of the playground area within the floodplain must have a grass ground cover. No mulch or similar material is permitted.

APPROXIMATE SITE LOCATION:



Source: Franklin County Auditor



Planning Commission Staff Report
February 20, 2019 Meeting

**MILLER AVENUE EXTENSION
PRELIMINARY AND FINAL ROAD PLAT**

LOCATION: Preliminary & final road plat for Miller Avenue extension generally located east of North High Street and northwest of Miller Avenue
APPLICANT: City of New Albany
REQUEST: Preliminary and Final Road Plat for Miller Avenue Extension
ZONING: Urban Center Code
STRATEGIC PLAN: Village Center
APPLICATION: PLFPL-08-2019

Review based on: Application materials received January 21, 2019.

Staff report completed by Chris Christian, Planner.

II. REQUEST AND BACKGROUND

The application is for a combined preliminary and final plat for dedication of right-of-way for an extension of Miller Avenue. This is identified as a future connection in the 2006 Village Center Strategic Plan and the Urban Center Code. This connection is an important roadway to gain additional connections in the Village Center. This Miller Avenue dedication will create a new extension of Miller Avenue from High Street to establish a future connection to the existing Miller Avenue on the west.

III. SITE DESCRIPTION & USE

The proposed right-of-way dedication will provide additional connections to the Village Center. The city is actively working with the All About Kids daycare and Animals-R-Special property owners at 96 and 88 North High Street to obtain right-of-way dedication agreements from these property owners. The new road will bisect these properties and establish a future connection to the existing Miller Avenue right-of-way that intersects with Main Street

IV. EVALUATION

Planning Commission's review authority of the preliminary and final plat is found under C.O. Section 1187. Upon review of the final plat the Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, zoning text, zoning regulations.

- This plat will create the right-of-way for Miller Avenue that will be dedicated to the City of New Albany.
- Miller Avenue dedication extension consists of approximately 250 +/- feet of new right-of-way. This dedication sets up a future connection from the existing Miller Avenue to North High Street.
- This extension will terminate at the rear property lines of 96 and 88 North High Street.
- The right-of-way is generally consistent with the existing amount of right-of-way on Miller Avenue. However, since this new right of way is located in between an existing developed site and a redevelopment site and staff has worked with the property owners to narrow the amount of right-of-way. There is sufficient right-of-way width to accommodate the city's Urban Center Code streetscape improvement recommendations.
- There are no reserves being platted with this new road extension.
- The city obtained 23.75' of right-of-way from the northern property owner and between 19.25' and 23.75' from the other property owner on the south, creating a right-of-way width that ranges between 43' and 47.5'.
- As part of this public improvement the city is working with the school district to realign their existing curb-cut on the west side of High Street in order to ensure the school's curb cut and this public street intersect.
- This proposed street dedication is identified as a future connection in the 2006 Village Center Strategic Plan Urban Center Code.

V. ENGINEER'S COMMENTS

The city engineer is the design engineer for the plat and road improvement plans and has no comments.

VI. RECOMMENDATION

Basis for Approval: The road plat is consistent with the overall vision for the area and will serve as an important connection within the Village Center.

VII. ACTION

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

Suggested Motion for PLFPL-08-2019:

Move to approve Certificate of Appropriateness application PLFPL-08-2019.

Approximate Site Location:



Source: Google Earth



Memorandum

TO: Planning Commission
FROM: Community Development Department
DATE: February 20, 2019
RE: C.O. 1179 Wireless Telecommunication Facilities Revisions

The proposed code changes to Codified Ordinance 1179 (Wireless Telecommunications Facilities) is necessary in order to keep the section harmonious and aligned with the recently updated Codified Ordinance 907 (Rights-of-Way). Codified Ordinance 907 was updated to allow small cell facilities and wireless support structures in the right-of-way. Additionally, staff proposes other minor modifications that improve some design requirements and improve the clarity of certain approval processes.

House Bill 478 (H.B. 478) dealing with municipal regulation of wireless telecommunications in the public right-of-way, was enacted by the Ohio General Assembly on April 11, 2018 and became effective August 1, 2018. H.B. 478 modified Ohio Revised Code Chapter 4939 to provide for a statewide regulatory scheme for the placement of privately owned small cell facilities and wireless support structures in, on and above the public rights-of-ways (streets, sidewalks, alleys, etc.) owned and controlled by Ohio cities. H.B. 478 establishes certain grants and restrictions of authority applicable to Ohio cities regarding the review and permitting processes to be used and the parameters of the specifically allowable sizes, locations and charges for the placement of such small cell facilities and wireless support structures in the public right-of-way and on certain limited types of municipally owned property located in the right-of-way. H.B. 478 additionally provides Ohio cities the ability to create unique Design Guidelines to address the placement of small cell facilities and wireless support structures in the right-of-way. Design Guidelines shall apply to the appearance and concealment of small cell facilities and wireless support structures in the right-of-way, including materials used for the arranging, screening and/or landscaping such facilities, as well as the design and appearance of wireless support structures.

Accordingly the city worked with legal consultant Ice Miller to modify and update the language of the City's existing Comprehensive Right-of-Way Management and Control Ordinance (Chapter 907) to incorporate changes necessary to address regulation of small cell facilities and wireless support structures in the right-of-way in response to the changes to Ohio Revised Code Chapter 4939 as promulgated by H.B. 478. Legal consultant Ice Miller and planning consultant MKSK created Small Cell Design Guidelines and Requirements. On December 4, 2018 City Council approved and adopted an ordinance that incorporates new language into Chapter 907 that provides for the City's establishment of its unique Design Guidelines to protect and preserve the health, safety and welfare of the City and its residents by authorizing the City's Director of Public Service to establish, implement and amend from time to time those Design Guidelines.

The majority of the modifications to Codified Ordinance 1179 ensure the applicability, and definitions of wireless telecommunications facilities are consistent with those in Codified Ordinance 907. The modifications clarify that small cell facilities and wireless support structures located in the city's rights-of-way, which are subject to the requirements of Chapter 907, are not subject to zoning requirements found in Chapter 1179.

Staff also proposes modifications to the following code sections (modifications shown in red in the attachment):

- Section 1179.04(b)(2)(C) to require all equipment shall be within a shelter or be screened by landscaping from all public rights-of-way and residentially zoned properties. Landscaping, screen walls, and shelters shall screen equipment to its full height. All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, clay tile, slate or wood shingles. All other finished surfaces shall be wood, brick, hardie-board, metal or any combination thereof.
- Section 1179.05(3) is modified to clarify that wireless telecommunications facilities combined with an existing structure are permitted by right.
- Section 1179.06(2) is modified to clarify wireless telecommunications facilities may be attached to a nonresidential building or an antenna support structure with approval of a conditional use application by the city's Planning Commission, that is a permitted use in the district; including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility.
- Section 1179.06(3) is modified to clarify a tower to support a wireless telecommunications facility may be constructed on a property with a nonresidential use that is a permitted use within the district, including but not limited to a church, hospital, school, municipal or government building, facility or structure, agricultural use and a utility use, subject to the approval of a conditional use application by the city's Planning Commission
- Section 1179.06(4) is modified to clarify a wireless telecommunications facility may be attached to a mid-rise or high-rise apartment building subject to the approval of a conditional use application by the city's Planning Commission.

The updated text will be sent to you via email prior to the meeting date. Additionally, a hard copy of the updated text will be provided for your use at the meeting.