



Planning Commission

Meeting Minutes

April 15, 2019

7:00 p.m.

Planning Commission met in regular session in the Council Chambers at Village Hall, 99 W. Main Street and was called to order by Planning Commission Chair Mr. Neil Kirby at 7:02 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Absent
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wilttrout	Present
Mr. Sloan Spalding (council liason)	Present (left at 8:36pm)

Staff members present: Steven Mayer, Development Services Coordinator; Jackie Russell, Development Services Manager; Chris Christian, Planner; Mitch Banchefsky, City Attorney; Ed Ferris, City Engineer; Pam Hickok, Clerk; and Josie Taylor, Clerk

Mr. Kirby asked for any corrections to the March 18, 2019 meeting minutes.

Mr. Wallace stated there were no corrections for the record.

Moved by Mr. Wallace, seconded by Ms. Wilttrout to approve the March 18, 2019 meeting minutes as submitted. Upon roll call: Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Schell, abstain; Mr. Kirby, yea. Yea, 3; Nay, 0; Abstain, 1. Motion passed by a 3-0-1 vote.

Mr. Kirby asked for any corrections or additions to the Agenda.

Mr. Christian stated none from staff.

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

Mr. Kirby requested all present silence their phones.

Mr. Kirby invited the public to speak on any non-agenda items. (No response).

VAR-23-2019 Variance

Variance to allow a fireplace to encroach the required side yard setback at 7030 Hanby's Loop (222-004847-00).

Applicant: Outdoor-FX Inc.

Mr. Christian presented the staff report.

Mr. Michael Sutherland, the properly owner, indicated the variance is needed to maintain sight lines in the back yard. Mr. Sutherland stated the fireplace, along with the pergola, are meant to provide shade and would, without the variance, be unsightly and obstruct views.

Mr. Kirby asked if Mr. Sutherland had conferred with his neighbor on the side the fireplace would be on.

Mr. Sutherland stated he had spoken to that neighbor and the neighbor was in support of the variance approval.

Mr. Kirby asked if the neighbor's approval was written or verbal.

Mr. Sutherland indicated it was verbal but that obtaining a written approval would not be an issue as the neighbor was very supportive of the variance.

Mr. Kirby stated this variance was similar to, although not part of, the Codified Ordinances Section 1165, because it is in the PUD text. Mr. Kirby asked if the modifications to Section 1165 would address this matter if it was a straight zoning issue or would it still be out of compliance, or is that not known?

Mr. Wallace asked Mr. Mayer if it would be in compliance.

Mr. Mayer replied that it would likely remain out of compliance due to the setback.

Mr. Schell asked how tall the fireplace structure would be.

Mr. Sutherland indicated it would be ten (10) feet tall, the same height of the pergola, which would be similar in construction to the pergola and fireplace on the neighbor's property.

Mr. Schell asked if this was the same neighbor who provided verbal approval.

Mr. Sutherland stated it was the same neighbor.

Mr. Schell asked Mr. Sutherland if the neighbor's setup was similar to what Mr. Sutherland was seeking approval for.

Mr. Sutherland indicated it was very similar.

Mr. Schell asked how tall the grill was on the neighbor's property.

Mr. Sutherland indicated the neighbor's grill was about five (5) feet tall with an eleven (11) or twelve (12) foot tall fireplace.

Mr. Schell stated the neighbor's fireplace was white and asked Mr. Sutherland what color his would be.

Mr. Sutherland indicated it would be the same color as the house.

Mr. Wallace stated that because the lot line is angled and it gets closer and closer as it moves toward the back this may be why it is out of compliance.

Mr. Mayer stated this does contribute to the need for the variance.

Mr. Wallace asked if the patio could be smaller to allow it to be in compliance.

Mr. Sutherland replied that a smaller patio would mean the fireplace would block the sight line from a window and would also adversely affect the appearance of the property.

Mr. Wallace stated that may mean the homeowner would need to consider whether to put the fireplace in or not.

Mr. Sutherland stated the fireplace does not encroach any further into the yard than currently existing landscaping.

Mr. Schell requested that Mr. Sutherland illustrate with a pointer for the Commission what the property looks like.

Mr. Sutherland indicated the design is meant to have the fireplace and addition look as if they were designed for the house at the time of construction rather than an addition added on that would then block a window and not fit into the neighborhood architecture.

Mr. Kirby asked if Mr. Sutherland would object to the fireplace being brought in so that it is at the edge of the windowpane.

Mr. Sutherland indicated he would not object.

Mr. Kirby asked if any member of the public had any questions or comments with no response.

Mr. Wallace asked if there was no way to make this smaller.

Mr. Sutherland stated that if were smaller than it would look grossly out of proportion to the next door neighbor's. He stated his was designed to be similar to that neighbor's property in construction, size, and build.

Mr. Kirby stated he would be willing to make a motion on two (2) conditions: (1) a written note from the neighbor showing no objection; and (2) that the fireplace structure

be brought to the front edge of the windowpane (not the window frame) to minimize the impact.

Mr. Wallace asked staff if these conditions were clear enough for staff to know what the structure would look like if approved.

Mr. Mayer indicated it would be.

Moved by Mr. Kirby 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. Wilttrout, abstain. Yea, 3; Nay, 0; Abstain, 1. Motion passed by a 3-0-1 vote.

Moved by Mr. Wallace, to approve VAR-23-2019 based on the findings in the staff report and subject to the conditions:

1. a written letter of concurrence must be obtained from the neighbor at 7096 Armscote End and submitted to city staff; and

2. The fireplace must be brought to the edge of the windowpane.

seconded by Mr. Schell.

Upon roll call: Mr. Wallace, no;

Mr. Schell asked Mr. Sutherland if it would be more than a foot if the fireplace comes into the windowpane and if he would be in agreement with that.

Mr. Sutherland stated he would not prefer it, but would accept that condition.

Mr. Schell, yea; Mr. Kirby, yea; Ms. Wilttrout, abstain. Yea, 2; Nay, 1; Abstain, 1.

Mr. Kirby stated a majority of the quorum did not vote yes and the motion failed with a 2-1-1 vote.

Mr. Banchevsky stated that may not be correct as the abstention may mean there was a smaller group to vote which may have meant a quorum did exist. He indicated he would look further into this matter.

Mr. Kirby stated that with three (3) votes counting then the Planning Commission was above quorum and that two (2) of three (3) votes would mean a majority of the quorum existed but not two (2) of four (4).

Mr. Banchevsky stated that was correct.

Mr. Kirby stated the vote was completed and it would be determined by legal staff whether VAR-23-2019 passed based on the votes.

Mr. Sutherland asked how he would be notified.

Mr. Banchefsky indicated he would let Mr. Sutherland know either later this evening or by the next night (April 16, 2019).

Mr. Wallace stated he voted no because the property was purchased with knowledge of the restriction and can be used without the variance.

Mr. Sutherland asked if the determination was negative in regard to the variance, what would be his options at that point.

Mr. Kirby asked how one could appeal a Planning Commission decision on a variance, asking whether that would need to go to common pleas court.

Mr. Banchefsky indicated the appeal would need to be filed in common pleas court.

FDM-24-2019 Final Development Plan Modification

Final development plan modification for the Nottingham Trace Clubhouse (222-004958-00).

Applicant: Pulte Homes of Ohio, LLC

Mr. Christian presented the staff report.

Mr. Kirby asked if there was any engineering on this modification.

Staff replied no.

Mr. Kirby asked for the applicant to speak.

Mr. Jim Marcero of Pulte Homes stated the modifications were needed for the New Albany market. Additional parking was needed and the active lifestyle of New Albany residents required them to alter bathrooms to make them larger to allow for locker rooms and that the added space was needed for programming and events.

Ms. Wilttrout asked if the majority of the increase in clubhouse size was related to fitness and amenities.

Mr. Marcero stated it was entirely related.

Ms. Wilttrout asked if the size of the clubhouse in the original plan had been a matter of consideration for the Planning Commission?

Mr. Marcero stated that Pulte determined the size.

Mr. Kirby asked if there was any conflict with the conditions in the staff report.

Mr. Marcero stated none to his knowledge.

Mr. Kirby referred to page 6, item 4 of the staff report and stated staff had indicated the applicant had not provided the sign relief for the entrance sign and asked to confirm that the sign board would be at least one (1) inch thick.

Mr. Marcero stated yes it was.

Mr. Kirby asked for confirmation regarding whether that needed to be a condition or whether simply the confirmation was sufficient.

Mr. Mayer stated it was sufficient because one (1) inch was the minimum per code requirement so if that was not met then the applicant would need to return to the Planning Commission with a variance.

Mr. Wallace noted staff suggested a condition requiring all conditions from previous applications be reasserted and asked if this should be added as a fifth condition.

Mr. Mayer stated yes.

Mr. Kirby asked if the conditions were available at this time so they could be reviewed to ensure there would be no conflicts.

Mr. Christian stated they were not.

Mr. Wallace suggested condition 5 be all conditions from the previously approved clubhouse applications be met unless superseded by conditions 1 through 4.

Mr. Kirby asked if any members of the public wished to speak. (No response).

Mr. Schell asked if the bocce ball court and the pickle ball court were in the original.

Mr. Marcero stated they were.

Mr. Christian stated one had been included and one had been proposed in the plan.

Mr. Wallace asked if there were any concerns regarding how close to the bocce and pickle ball courts people would park rather than using the designated parking spots.

Mr. Marcero stated that access to the courts from parking spots was a factor for the design change.

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

Moved by Mr. Wallace, to approve FDM-24-2019 based on the findings in the staff report and subject to:

1. The future bocce
2. The proposed bike racks to be the Dero Swerve racks which are recommended in the city's Urban Center Code and that the final design and location of the bike racks and mailbox units be subject to staff approval.
3. The pickleball fence be subject to staff approval
4. Address the comments of the City Landscape Architect, subject to staff approval.
5. All conditions are met, subject to staff approval unless superseded by conditions 1 through 4.

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

Annual Organizational Meeting

Chairperson Nomination

Mr. Kirby asked for nominations for Chairperson.

Mr. Wallace nominated Mr. Kirby.

Mr. Kirby asked for other nominations. (No response).

Mr. Kirby closed nominations.

Ms. Wiltrout

Moved by Mr. Wallace to nominate Mr. Kirby as Chairperson, seconded by Ms. Wiltrout. Upon roll call: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 4; Nay 0; Abstain, 0. Mr. Kirby elected Chairperson by a 4-0 vote.

Vice-Chairperson Nomination

Mr. Kirby opened nominations for Vice Chairperson.

Ms. Wiltrout nominated Mr. Wallace for Vice Chairperson.

Mr. Kirby asked for other nominations. (No response).

Mr. Kirby closed nominations.

Moved by Ms. Wiltrout to nominate Mr. Wallace as Chairperson, seconded by Mr. Schell. Upon roll call: Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 4; Nay 0; Abstain, 0. Mr. Wallace elected Vice-Chairperson by a 4-0 vote.

Secretary Nomination

Mr. Kirby asked who currently served as Secretary.

Mr. Wallace stated it was Mr. Shockey.

Mr. Wallace nominated Mr. Shockey for Secretary.

Mr. Kirby asked for other nominations. (No response).

Mr. Kirby closed nominations.

Moved by Mr. Wallace to nominate Mr. Shockey as Secretary, seconded by Mr. Kirby. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 4; Nay 0; Abstain, 0. Mr. Shockey elected Secretary by a 4-0 vote.

Mr. Kirby proposed to maintain the current date, time, and location schedule of regular Planning Commission meetings the same for the 2019 year.

Mr. Kirby asked for any discussion on the motion. (No response).

Moved by Mr. Kirby to maintain current regular Planning Commission meeting schedule for the 2019 year, seconded by Mr. Wallace. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Schell, yea. Yea, 4; Nay 0; Abstain, 0. Date, time, and location for 2019 regular Planning Commission meetings to remain the same by a 4-0 vote.

Board of Zoning Appeals Nomination

Mr. Kirby inquired whether a liaison for the Board of Zoning Appeals was needed.

Mr. Mayer stated a liaison was required.

Mr. Wallace nominated Ms. Wilttrout.

Mr. Kirby asked for other nominations. (No response).

Mr. Kirby closed nominations.

Moved by Mr. Wallace to nominate Ms. Wilttrout as the Planning Commission liaison to the Board of Zoning Appeals, seconded by Mr. Schell. Upon roll call: Mr. Wallace, yea; Mr. Schell, yea; Mr. Kirby, yea; Ms. Wilttrout, yea. Yea, 4; Nay 0; Abstain, 0. Ms. Wilttrout to continue to serve as the Planning Commission liaison to the Board of Zoning Appeals by a 4-0 vote.

2019 New Albany Strategic Plan Steering Committee Designee

Mr. Kirby asked Mr. Mayer to discuss the matter.

Mr. Mayer indicated New Albany was updating its strategic plan this year and hoped to begin in June. He stated it would be about a one-year process that has historically had a member from each of the city's boards and commissions serving on the steering committee. Mr. Mayer added that in addition to the role of designee there would be additional opportunities to be involved in this process. Mr. Mayer also indicated the meetings would be held during the day, preferably first thing in the morning during the week, and would take about one (1) or two (2) hours of time.

Mr. Kirby asked if other meetings with focus groups would be in the evening.

Mr. Mayer stated focus groups would likely still be during the day. Mr. Mayer stated that public meetings and a speaker series are also planned in addition to the steering committee and focus groups.

Mr. Wallace asked if two (2) members could serve as the designee.

Mr. Mayer said one (1) would be preferred, but two (2) were possible. Mr. Mayer indicated there would be six (6) focus groups: Sustainability, Transportation, Thoroughfare Planning, Parks and Open Space, Community Programming and Amenities, and Village Center.

Mr. Wallace inquired if a member could attend meetings even if not the designee.

Mr. Mayer indicated that was correct.

Mr. Mayer added that while there was no rule against having more than one designee it was preferred to have one to ensure balance between all boards and committees.

Mr. Kirby asked if other boards and commissions were as strongly connected to the strategic plan.

Mr. Mayer stated that was a very good point and reiterated that two (2) could be nominated to act as the designee.

Moved by Mr. Wallace to nominate Mr. Schell and Ms. Wilttrout as the New Albany Strategic Plan Steering Committee Designees, seconded by Mr. Kirby. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 4; Nay 0; Abstain, 0. Mr. Schell and Ms. Wilttrout elected as the 2019 New Albany Strategic Plan Steering Committee Designees by a 4-0 vote.

Mr. Mayer indicated further information would be provided once it was available.

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

Motion to recommend approval to City Council for changes to Codified Ordinances Section 1179.

Mr. Mayer discussed the changes and additions to Codified Ordinances Section 1179 – Wireless Telecommunication Facilities (§1179).

Mr. Wallace asked if in §1179.03(k) "the distance measured from the finished grade at the base of the Tower or wireless support structure structure" was meant to repeat the word "structure".

Mr. Mayer replied this was correct as written and the word "structure" was intentionally used twice as §1179.03(k) could be used to consider a "tower" placed on top of a building or other structure.

Mr. Kirby asked for confirmation that §1179.03(k) referred to tower height, not antenna height.

Mr. Mayer indicated that was correct.

Ms. Wiltout asked if formal approval was to be provided this evening.

Mr. Mayer indicated formal approval was being sought this evening.

Mr. Kirby asked for questions or comments. (No response).

Moved by Mr. Kirby to accept the document of changes to Codified Ordinances Section 1179 - Wireless Telecommunications Facilities into the record, seconded by Ms. Wiltout. Upon roll call vote: Mr. Kirby, yea; Ms. Wiltout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Mr. Wallace to approve the changes made to Codified Ordinances Section 1179, seconded by Mr. Kirby. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wiltout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Workshop to Codified Ordinances Section 1165 – General Development Standards.

Mr. Christian and Ms. Russell presented the discussion on Workshop to Codified Ordinances Section 1165 - General Development Standards (§1165).

Mr. Schell asked if the square footage numbers used when determining whether a variance was needed for a structure referred to total square footage for a total number of structures.

Ms. Russell replied that the square footage was for one structure but that there was no limit to the number of structures and this could be further considered.

Mr. Wallace asked if the term functional features is defined.

Ms. Russell indicated it was not.

Mr. Wallace stated the term may need to be defined.

Mr. Kirby indicated the language used for mechanical devices and encroachment for cases such as air conditioning units, generators, and basement window egress would need to be tightened.

Mr. Kirby asked if there were problems with generators and encroachment.

Mr. Mayer said he was not aware of any, but the code needs to better define generator code requirements as it does not fall into mechanical devices currently.

Ms. Hickok stated there was a building code section as to how closely the exhaust from a generator could be to windows but she did not know the exact number.

Mr. Mayer stated he could research that and use it for generators.

Ms. Wilttrout asked for an explanation as to why the prior requirement that accessory structures be ten (10) feet from each other was removed.

Ms. Russell stated it was removed because the structures not directly attached to a house must be ten (10) feet from each other so more accessory lifestyle improvements would not require such a stringent requirement whereas a primary structure would.

Ms. Wilttrout asked if a situation where someone put up two (2) large detached accessory structures right next to each other might not arise.

Mr. Mayer indicated that would be reviewed to determine the need for the distance requirement.

Mr. Mayer indicated there were options for Planning Commission to select from on §1165(o)(3)(a)(2).

Ms. Wilttrout asked if the language in §1165(o)(3)(a)(2) could be simplified because it was confusing as written.

Mr. Mayer indicated that would be considered.

Ms. Wiltout stated the 15 foot setback might be too small for larger lots.

Mr. Mayer stated a larger setback would be considered.

Mr. Kirby asked how large the estate lots in the New Albany Country Club were averaging?

Mr. Mayer stated they were typically one (1) to two (2) acres.

Mr. Kirby asked if a larger standard would not be preferred to help reduce the potential number of variance requests.

Mr. Mayer indicated that would be a good consideration but that unique lot shapes and sizes would still lead to variance issues.

Mr. Wallace stated he would prefer to see variance requests limited in some fashion so that certain issues were not repeatedly arising as a variance request.

Mr. Mayer asked Ms. Russell what the current setback was for a detached garage.

Ms. Russell indicated it was currently, as the code is written, ten (10) feet with a 25 foot height and cannot exceed first floor of a house and no more than 5% of the lot, whichever is less.

Mr. Kirby asked what the term "screen" meant?

Mr. Russell indicated it referred to a mesh screen.

Mr. Schell asked if the total amount of square footage should be limited. For example, Mr. Schell stated, the owner of a three (3) acre lot may decide to erect four (4) detached garages.

Ms. Russell replied the R2, R3, and R4 districts have a lot coverage requirement that would still have to be met. The only one that does not are R1 and any PUD. However, some of the PUDs do have a lot coverage. Some of that would be mitigated by the lot coverage, but perhaps the R1 districts could have a maximum established.

Mr. Kirby asked if this limitation was needed, adding that on a one (1) acre lot, for example, two very large structures would just not physically fit unless it encroached on a lot line.

Mr. Wallace stated there is a difference between physically fitting and aesthetically fitting into a space.

Ms. Wilttrout asked why all others but R1 have a lot coverage requirement.

Ms. Russell stated the Code did not include one.

Ms. Wilttrout asked if one could be added at this time.

Mr. Schell stated he believed a maximum lot coverage amount should be added to R1.

Mr. Mayer stated a limit to the number of accessory structures should also be considered. Mr. Mayer indicated the current Code allows a maximum of one (1) detached garage and one (1) storage structure or recreational building. He said that requirement could be retained, with its need to have owners ask for a variance for an additional structure, and asked whether a change should be made.

Mr. Mayer also indicated that §1165 currently only applies to residentially zoned districts.

Ms. Russell asked if the limits proposed would apply only to larger accessory structures, not those such as a sandbox.

Ms. Wilttrout indicated that was correct.

Mr. Mayer indicated he had a question as to the definition of a detached accessory structure found on page 2 of §1165.03(a) which included detached garages, enclosed accessory buildings larger than 200 square feet, pool houses, and other structures not considered to be recreational accessory accommodations. Mr. Mayer stated this was currently interpreted to mean any detached garage, as they were all going to be over 200 square feet or a pool house and said staff had added it meant anything not considered to be a recreational accessory accommodation because a structure under 200 square feet may have same functionality, such as a 300 square foot wine cellar above ground.

Mr. Kirby asked if all detached accessory structures had a roof whereas none of the recreational accessory accommodations had a solid roof.

Ms. Wilttrout asked if perhaps open air structures, including no sides in a structure, would also differentiate detached accessory structures from recreational accessory accommodations.

Mr. Mayer replied that part b provided that definition.

Mr. Wallace asked where the term "building" was defined.

Ms. Russell indicated it was defined at the beginning of the Code.

Mr. Kirby stated that buildings keep out the weather.

Ms. Russell stated no, that columns could constitute a building, but a roof was more of the key.

Ms. Wilttrout stated that could be a gazebo or covered porch.

Mr. Wallace asked if the term "roof" was defined.

Ms. Hickock stated the term "roof" was defined in the building code.

Mr. Wallace stated those definitions could be incorporated.

Mr. Mayer stated it would be good to use those as much as possible.

Mr. Wallace noted that the intent did seem to be that a building was different from a gazebo.

Mr. Mayer agreed.

Ms. Wilttrout suggested a limit to structure height be considered due to sight line considerations.

Ms. Russell stated Planning Commission comments would be reviewed moving forward.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 8:39 p.m.

Submitted by Josie Taylor.

APPENDIX



Planning Commission Staff Report April 15, 2019 Meeting

7030 HANBY'S LOOP SETBACK VARIANCE

LOCATION: 7030 Hanby's Loop (PID: 222-004847-00)
APPLICANT: Outdoor-FX Inc
REQUEST: Variance to West Nine 2 Zoning Text Subarea C 4(d) to allow a fireplace to be setback 5 feet from the side property line where the text requires a minimum 7 foot side yard setback
ZONING: West Nine 2—Subarea C
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: V-23-2019

Review based on: Application materials received March 15th and March 28th

Staff report prepared by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to West Nine 2 Zoning Text Subarea C 4(d) to allow a fireplace to be setback 5 feet from the side property line where the text requires a minimum 7 foot side yard setback.

The applicant is proposing to install a fireplace in the rear yard of their property as a part of the homeowner's outdoor living space. The West Nine zoning text requires a minimum 7 foot side yard setback for this area. As proposed, the fireplace will encroach the required side yard setback by 2 feet.

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 0.29 acres and the neighboring properties consist single-family homes.

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

Variance to West Nine 2 Zoning Text Subarea C 4(d) to allow a fireplace to be setback 5 feet from the side property line where the text requires a minimum 7 foot side yard setback.

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

1. The applicant is proposing to build a fireplace as a part of the homeowner’s outdoor living space which includes a patio and a pergola that is attached to the home. The proposed fireplace is 6 feet wide, 3 feet in depth and 10 feet tall.
2. The proposed location for the fireplace is setback 5 feet from the side property line where the zoning text requires a minimum side yard setback of 7 feet.
3. As proposed, the fireplace will encroach into the side yard on the south east side of the home.

4. It does not appear that the essential character of the neighborhood would be altered or adjoining properties would suffer a substantial detriment. The back of the fireplace is proposed to face the neighboring property and will be installed in line with the existing landscape screening for the existing patio space. The existing landscaping in addition to the fireplace will serve to provide screening from the public street and the homeowner's outdoor living space.
5. The request does not appear to be substantial as the fireplace will still be setback five feet from the side property line. Additionally, the request does not appear to be substantial as the homeowners already use this area of their property for outdoor living space. The fireplace will not be built in any easements.
6. 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.
7. It appears granting the variance will not adversely affect the delivery of government services.

Staff recommends approval of the variance request should the Planning Commission find that the application has sufficient basis for approval. The variance does not appear to be substantial given the minimal setback encroachment of 2 feet. The addition of the fireplace compliments the existing outdoor living space at the rear of the property and will be installed in line with the existing landscape screening for the existing patio space. Due to this, it does not appear that granting this variance request will alter the character of the neighborhood nor would neighboring properties suffer a substantial detriment.

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-23-2019 based on the findings in the staff report.

Approximate Site Location:



Source: Google Earth



**Planning Commission Staff Report
April 15, 2019 Meeting**

**NOTTINGHAM TRACE CLUBHOUSE
FINAL DEVELOPMENT PLAN MODIFICATION**

LOCATION: Generally west of State Route 605/New Albany-Condit Road, south of Walnut Street, east and west of Schleppi Road, and east of the Upper Albany subdivision (PID: 222-004443, 222-004445, 222-004444, and 222-004446)

APPLICANT: Pulte Homes c/o Dave Dozer

REQUEST: Final Development Plan Modification

ZONING: I-PUD Infill Planned Unit Development (New Albany North PUD Text)

STRATEGIC PLAN: Office District

APPLICATION: FDM-24-2019

Review based on: Application materials received March 15 and April 1, 2019.

Staff report completed by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests review of a final development plan modification for the previously approved clubhouse to be built on 1.9+/- acres at the Nottingham Trace subdivision. The changes include modifications to the site plan, landscape plan and clubhouse size and elevations.

Initially, on June 19, 2017 the Planning Commission approved the final development plan for the subdivision. Then on January 17, 2018 the Planning Commission approved a final development plan for the Nottingham Trace Clubhouse. To date, the Planning Commission has reviewed and approved four phases of the development.

The application is being heard by the Planning Commission because section II(G)(2) of the Nottingham Trace zoning text states, "The private community clubhouse shall be located within the 1.9 +/- acre open space/amenity area that is shown on the preliminary development plan. This parcel shall be owned and maintained by applicant (or its affiliated entities) or the HOA. The final size and configuration of this parcel shall be identified in an approved final development plan."

II. SITE DESCRIPTION & USE

The neighboring uses and zoning districts include L-GE to the south, unincorporated residential to the north, the Upper Albany subdivision in the City of Columbus to the west, and

to the east is a mixture of unincorporated residential and a portion of the New Albany Business Park.

III. EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Changes to the previously approved final development plan are underlined throughout the report. Planning Commission's review authority is found under Chapter 1159. Staff recommends a condition of approval that all conditions from the previously approved application are to be met.

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

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

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

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- d. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*

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

New Albany Strategic Plan

The majority of the site is located in the 2014 New Albany Strategic Plan's Office Campus future land use district, with a small portion in the Rural Residential 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.

A. Use, Site and Layout

1. The property is zoned I-PUD under the New Albany North PUD text. Age-restricted dwellings are a permitted use within this subarea.
2. In section II(A)(3) the text allows for one private amenities center/clubhouse, which may include a fitness center, gathering spaces, and/or other recreational and social facilities, amenities, and improvements to serve only the residents living in this zoning district.
3. The previously approved clubhouse was 2,400 square feet. The proposed clubhouse house is 3,926 square feet on the same 1.9 acre lot. It features two pickle ball courts, a bocce ball court and a future bocce ball court which were originally reviewed and approved by the Planning Commission.
4. The site also includes a bike rack and mailbox units. Staff recommends the proposed bike racks to be the Dero Swerve racks which are recommended in the City's Urban Center Code and that the final design and location of the bike racks and mailbox units be subject to staff approval.
5. The previously approved floor plan included fitness space, office space, multi-purpose space, restrooms, and a kitchenette. The applicant is proposing to add a game room, an activity room and two storage rooms and to remove the previously approved office space from the building.
6. The minimum front yard setback required by the zoning text is 20 feet, the proposed clubhouse is 101 +/- feet from the front drive.
7. The minimum side yard setback required by the zoning text is 5 feet, the applicant has proposed the clubhouse to be 112 feet +/- and 113 feet +/- from the side yards. The previously approved setbacks were 123 +/- feet and 115 feet +/- from the side lot lines.
8. The minimum rear yard setback that is required by the zoning text is 20 feet, the proposed rear yard setback is 150' +/-.
9. The proposed bocce ball courts and pickle ball courts meet the same setbacks that are required by the zoning text. The applicant is proposing fencing to surround the pickleball courts. No additional fence detail has been provided. Staff recommends that the pickleball fence be subject to staff approval.

B. Access, Loading, Parking

1. The text states that a parking lot may be provided near the clubhouse to provide for parking needs of residents and other visitors of the residents in the community. The location of the parking lot and number of spaces shall be determined at the time of a final development plan for this subarea.
2. C.O. 1167.05(c)(4) says community centers should have one space for every 400 square feet of gross floor area; the minimum would be 10 parking spaces. The applicant has provided 18 parking spaces, which meets the city parking minimum. Previously the applicant proposed to install 10 parking spaces.

3. The primary access to the site will be from Nottingham Loop. The site has two curb cuts off of Nottingham Loop to a semi-circle drive, where the parking is located.

C. Architectural Standards

1. The text allows the maximum height of the clubhouse to be 35 feet as measured from finished grade at the door to the ridge on the roof. The applicant has proposed the height of the clubhouse to be 22 feet +/-.
2. The text requires that the private clubhouse be 1 ½ stories in appearance or two stories in height. The architectural design and appearance of this structure shall be complimentary to and consistent with the homes in this subarea. The proposed design appears to meet this code requirement.
3. The proposed clubhouse will have a brick water table and white vinyl beaded siding, which are approved materials per the zoning text.
4. The zoning text requires that four-sided be used, and blank facades shall be prohibited. The proposed design meets this code requirement by using the same materials and details on the front elevation to the other elevations of the home through material, louvers, and windows.
5. The massing is a simple massing with a hip roof, with columns that are thinner at the neck and wider at the base.
6. The City Architect has reviewed the clubhouse and recommends approval of the proposed design.

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

1. Due to the increased size of the parking lot, the applicant is required to provide 3,018.2 square feet of parking lot landscaping and has provided 3,854.5 square feet therefore this requirement is being met.
2. The applicant is meeting all other landscaping requirements found in C.O. chapter 1171.
3. The City Landscape Architect has reviewed the referenced plan in accordance with the landscaping requirements found in the New Albany Codified Ordinances and zoning text. Staff recommends all the City Landscape Architect's comments are complied with and subject to staff approval.
 - a. Submit a full planting plan with exact specie locations for review.
 - b. Mailbox screening shrubs should be evergreen not deciduous.
 - c. The four-rail horse fence detail should be a total of 4 feet tall. Amend detail to show the first rail above finished grade is 6 inches rather than 12 inches.

E. *Lighting & Signage*

1. The text requires that light poles within the parking lot areas near the private amenities center 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. There are three proposed light posts, which are 15.7 feet tall and meets the requirements of the text. The previous approval included one light post.
2. The applicant proposes a low voltage accent light located within the landscape bed in front of the clubhouse sign located in the front of the site. This meets the code requirement in section H(3)(f) which states ground mounted lighting shall be shielded

- and landscaped.
3. This subdivision is allowed up to 4 dual post signs for the entrances to the subdivision based on city code requirements of one per subdivision entrance. The Planning Commission approved one dual post sign to be located at State Route 605 and Nottingham Boulevard entrance. The applicant proposes the same dual post sign to be located at the front of the clubhouse site. The sign will include a subdivision logo and read, "Nottingham Clubhouse." This sign meets city code standards for dual post signs.
 - a. It is 18 square feet, 6 feet by 3 feet, where the code states a maximum of 20 square feet.
 - b. The proposed sign board is 5 feet in total height, where the maximum allowed is 7 feet.
 - c. The maximum length of the sign board is 7.5 feet, the applicant has proposed the sign board to be 6 feet long.
 4. The applicant did not provide the sign relief for the entrance sign. The Planning Commission should confirm with the applicant that the sign board is at least one inch thick.
 5. The applicant is also proposing to install two single post-top informational signs on either side of the clubhouse property. These signs will include the logo and read, "Clubhouse and amenities for resident use only." These signs were previously reviewed and approved by the Planning Commission.

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 does not have any comments.

V. RECOMMENDATION

The overall proposal appears to meet the recommendations of the New Albany Strategic Plan and zoning text requirements. The Planning Commission commented on the previous approval that the parking spaces appeared to be limited at the site. This proposal includes additional parking spaces to ensure there is a sufficient number for all residents. The application includes various amenities to serve the residents of the neighborhood including the addition of a game room and an activity room. The site layout maintains multiple connections for residents to access the clubhouse site to take advantage of the excellent site amenities, while meeting the requirements illustrated in the PUD text. The proposed changes to the exterior façade demonstrate simple architecture, and matches the proposed architectural details for the surrounding homes which creates a welcoming environment into the community gathering place.

V. ACTION

Suggested Motion for FDM-24-2019:

Move to approve final development plan application FDM-24-2019 based on the finding in the staff report, with the following conditions all subject to staff approval:

1. The future bocce ball court is included in this approval, and is subject to staff approval.

CHAPTER 1179 - WIRELESS TELECOMMUNICATION FACILITIES^[33]

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Footnotes:

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Editor's note— Ord. O-37-2014, passed Dec. 16, 2014, amended Ch. 1179, §§ 1179.01—1179.11, in effect repealing and reenacting said chapter as set out herein. Former Ch. 1179 pertained to similar subject matter and derived from Ord. 18-97, passed Oct. 6, 1998.

1179.01 - PURPOSE.

This chapter provides for the regulation of the placement, construction and modification of Towers and Wireless Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. Specifically:

- (a) To direct the location of Towers and Wireless Telecommunications Facilities in the City;
- (b) To protect residential areas and land uses from potential adverse impacts of Towers and Wireless Telecommunications Facilities;
- (c) To minimize adverse visual impacts of Towers and Wireless Telecommunications Facilities through careful design, siting, landscaping and innovative camouflaging techniques;
- (d) To promote and encourage shared use/co-location of Towers and wireless support structures as a primary option rather than construction of additional single use Towers;
- (e) To avoid potential damage to adjacent properties caused by Towers and Wireless Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed;
- (f) To the greatest extent feasible, ensure that Towers and Wireless Telecommunications Facilities are compatible with surrounding land uses;
- (g) To the greatest extent feasible, ensure that proposed Towers and Wireless Telecommunications Facilities are designed in harmony with natural setting and in a manner consistent with current development patterns.

(Ord. O-37-2014. Passed 12-16-14.)

1179.02 – APPLICABILITY.

- (a) The provisions of this chapter shall apply to all Towers, wireless support structures and Wireless Telecommunications Facilities, unless such support structures or facilities are small cell facilities located in the City Rights-of-Way or wireless support structures located in the City Rights-of-Way, in such instance Chapter 907 of the Code shall apply. Nothing herein shall affect the applicability of Ohio Revised Code Chapter 4939 to small cell facilities and wireless support structures in City

Rights-of-Way. Wireless Facilities Zoning shall not apply to small cell facilities located in the City Rights-of-Way and wireless support structures located in the City Rights-of-Way.

- (b) Except as provided herein, any use being made of an existing Tower or wireless support structure subject to this chapter on the effective date of this chapter (herein "Non-conforming Structures") shall be allowed to continue, even if in conflict with the terms of this chapter. Any Tower site that has received City approval in the form of either a variance or building permit, but has not yet been constructed or located, shall be considered a Non-conforming Structure so long as such approval is current and not expired.

(Ord. O-37-2014. Passed 12-16-14.)

1179.03 - DEFINITIONS.

For purposes of this chapter, the following terms, phrases and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Antenna" means any transmitting or receiving device used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communication signals, or other communication signals.
- (b) "Applicant" means any person that applied for a conditional use permit pursuant to Section 1179.07.
- (c) "Application" means the process by which an applicant submits a request and indicates a desire to be granted a conditional use permit under the provisions of this chapter. An application includes all written documentation, verbal statements and representations, in whatever form or forms made by an applicant to the City concerning such a request.
- (d) "Code" means City Codified Ordinances.
- (e) "Co-location" means the use of a Wireless Telecommunications Facility by more than one wireless telecommunications provider.
- (f) "Council" means the Municipal Council.
- (g) "Emergency" means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (h) "Engineer" means any engineer licensed by the State of Ohio.
- (i) "Equipment Shelter" means a structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.
- (j) "FCC" means the Federal Communications Commission or any legally appointed, designated or elected agent or successor.
- (k) "Height" means, when referring to a Tower or other wireless support structure, the distance measured from the finished grade at the base of the Tower or wireless support structure structure to the highest point on the Tower or wireless support structure, including the base pad and any Wireless Telecommunications Facilities, but not including lightning arrest devices.
- (l) "Monopole" means a support structure constructed of a single, self-supporting hollow metal tube or other appropriate pole like structure securely anchored to a foundation.
- (m) "City" means the City of New Albany, a municipal corporation, in the State of Ohio, acting by and through its Council.
- (n) "Open Space" means land devoted to conservation of recreational purposes and/or land designated by the City to remain undeveloped (may be specified on a zoning map).

- (o) "Person" means any natural persons, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for-profit.
- (p) "Right(s)-of-Way" means the public Rights-of-Way within the City as defined by Code Section 907.01(c)62.
- (q) "Small Cell Facility" means the same as defined by Code Section 907.01(c)67.
- (r) "Tower" means a self-supporting lattice, guyed, monopole, or other structure constructed from grade which is built for the sole or primary purpose of supporting Wireless Telecommunications Facilities. The term "Tower" shall not include amateur radio operators' equipment, as licensed by the FCC or poles (utility poles, light poles or traffic signal poles) then currently in place having been previously constructed for a primary purpose other than supporting Wireless Telecommunications Facilities.
- (s) "Wireless Support Structure" means the same as defined by Code Section 907.01(c)87.
- (t) "Wireless Telecommunications Facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or has installed upon a Tower or wireless support structure. However, the term "" shall not include:
 - (1). Any satellite earth station antenna two (2) meters in diameter or less which are located in an area zoned industrial or commercial;
 - (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category; or
 - (3) Antennas used by amateur radio operators.

(Ord. O-37-2014. Passed 12-16-14.)

1179.04 - GENERAL REQUIREMENTS.

- (a) Permitted, Conditional and Prohibited Use . Wireless Telecommunications Facilities subject to this Chapter 1179 are either permitted uses, conditional uses or prohibited uses in a variety of zoning districts contingent upon a number of requirements being met. These criteria are in place in an attempt to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction, and reduction of the need for new Towers.
- (b) Requirements of Wireless Telecommunications Facilities . The following requirements apply to all Wireless Telecommunications Facilities subject to this Chapter 1179 regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential districts as set forth in Sections 1179.05 and 1179.06. Small cell facilities and wireless support structures located in City Rights-of-Way and subject to the requirements of Chapter 907 of the Code are not subject to zoning approval and therefore do not require a zoning permit.
 - (1) Each Applicant for a Wireless Telecommunications Facility and/or Tower subject to this chapter shall provide to the City an inventory of its existing Towers, Wireless Telecommunications Facilities, or sites planned and/or approved for Towers or Wireless Telecommunications Facilities, including its existing small cell facilities and wireless support structures, that are either within the jurisdiction of the City or within two (2) miles of the border thereof, including specific information about the location, height and design of each Tower and Wireless Telecommunications Facility. The City may share such information with other Applicants seeking to locate antennas within the jurisdiction of the City, provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 - (2) Towers and Wireless Telecommunications Facilities subject to this chapter shall meet the following requirements:

- A. Towers are a prohibited use/structure in the Right(s)-of-Way in all zoning districts within the City.
- B. Tower color and finish. Towers shall either maintain a non-contrasting gray or similar neutral color or have a galvanized steel finish unless otherwise required by the City or any applicable standards of the Federal Aviation Administration ("FAA") or the Ohio Department of Transportation ("ODOT").
- C. Compatible design. At a Tower site, the design of the buildings and related structures shall use materials, colors, textures and screening so as to be aesthetically and architecturally compatible with the surrounding environment, as approved by the City. All equipment shall be within a shelter or be screened by landscaping, subject to staff review and in accordance with Code section 1171.05, from all public Rights-of-Way and residentially zoned properties.
- D. Antenna color. If a Wireless Telecommunications Facility is installed on a wireless support structure or Tower, the Wireless Telecommunications Facilities and supporting electrical and mechanical equipment must be a neutral color that is identical to, or closely compatible with the color of the wireless support structure or Tower so as to make the Wireless Telecommunications Facilities as visually unobtrusive as possible, as determined by the City.
- E. Fencing. Any fencing shall comply with the City's Code.
- F. Lighting. Towers and Wireless Telecommunications Facilities shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- G. State or federal requirements. All Towers must meet or exceed current standards and regulations for the FAA, the FCC and any other agency of the state or federal government with the authority to regulate Towers and Wireless Telecommunications Facilities. If such standards and regulations are changed, then the owners of the Towers and Wireless Telecommunications Facilities shall bring such Towers and antennas into compliance with such revised standards within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring Towers and Wireless Telecommunications Facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the Tower and/or Wireless Telecommunications Facility at the owner's expense.
- H. Building codes; safety standards. To ensure the structural integrity of Towers, the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for Towers that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the City concludes that a Tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower or antenna at the owner's expense.
- I. Nonessential services. Towers and Wireless Telecommunications Facilities shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities or private utilities.
- J. License to operate. Owners and operators of Towers or Wireless Telecommunications Facilities shall submit copies of all franchises, certifications, licenses and permits required by law for the design, construction, location and operation of wireless communications in the City. Owners and/or operators shall be required to maintain

same and to provide evidence of removal or extension thereof when granted.

- K. Signs. No signs shall be allowed on a Wireless Telecommunications Facility or Tower. A notification sign shall be posted indicating the emergency contact phone number. Any such emergency notification signage shall be non-illuminated and not larger than two (2) feet × three (3) feet.
 - L. Historic register/district. Any application to locate a Tower or a Wireless Telecommunications Facility that is subject to this chapter and is on a parcel that contains a building or structure that is listed on a historic register, or is in a historic district, or is attached to building or structure that is listed on a historic register acting as an wireless support structure, shall require the filing of a Certificate of Appropriateness application for review by the City's Architectural Review Board, as such terms are defined in Code section 1157.03, in addition to any other required review process.
 - M. Underground equipment shelters. Underground equipment shelters shall be required where appropriate screening of shelter cannot be accomplished.
 - N. Accommodation. All Towers shall be constructed or reconstructed to accommodate multiple users.
 - O. Maximum height. No Tower shall exceed two hundred (200) feet, in height.
- (c) Permitted Ancillary Use. Any Wireless Telecommunications Facilities subject to this chapter that are not attached to a Tower shall be a permitted ancillary use (permitted use) to any commercial, industrial, office, community facilities, institutional, or multi-family structure, or other wireless support structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located and without having to obtain any prior authorization from the City; provided that the person making such ancillary use files a written certification with the City establishing the following:
- (1) That the total height of the wireless support structure and Wireless Telecommunications Facility does not exceed the structural height limitations in the applicable zoning district more than twenty (20) feet;
 - (2) That the wireless support structure and Wireless Telecommunications Facilities comply with the Ohio Building Code, as incorporated in Code chapter 1321;
 - (3) That any Wireless Telecommunications Facilities and their appurtenances, located on the roof of a building, are set back one (1) foot from the edge of the roof, not including for the penthouse, for each one (1) foot in height of the Wireless Telecommunications Facilities. However, this setback requirement shall not apply to antennas less than two (2) inches in thickness, which are mounted to the sides of wireless support structures, but which do not protrude more than six (6) inches from the side of such a wireless support structure. This requirement is subject to change by the City planning commission upon review of the photo simulation provided in compliance with this subsection.
 - (4) That the Wireless Telecommunications Facilities will utilize camouflaging techniques or will be side-mounted to an wireless support structure so that the Wireless Telecommunications Facilities harmonize with the character and environment of the area in which they are located.

(Ord. O-37-2014. Passed 12-16-14)

1179.05 - NONRESIDENTIAL DISTRICTS.

Towers and wireless telecommunication facilities proposed for the following zoning districts -industrial, commercial and community facilities - with the exception of small cell facilities and wireless support structures governed by Chapter 907, are subject to the following conditions:

- (a) Tower-Sole Use on a Lot. A Tower is permitted as a sole use on a lot subject to the following:
 - (1) Minimum yard requirements. Tower: A Tower greater than fifty (50) feet in height shall be set back a minimum distance to any single-family or two-family residential use or district lot line of two hundred (200) feet. A Tower that is equal to or less than fifty (50) feet in height shall be set back a minimum distance to any single-family or two-family residential use or district lot line equal to the height of the Tower plus twenty (20) feet.
 - (2) Maximum size of equipment shelter. Four hundred (400) square feet for a single shelter, or, if there is more than one, eight hundred (800) total square feet.
- (b) Tower On a Property with Another Use. A Tower is permitted on a property with another use subject to the following conditions:
 - (1) The existing or future use on the property may be any permitted use in the district or any lawful non-conforming use, and need not be affiliated with the wireless telecommunications provider. The Tower will not be considered an addition to the structure or value of a non-conforming use.
 - (2) The Tower and all Wireless Telecommunications Facilities shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
 - (3) Minimum lot area. The minimum lot area shall be the area needed to accommodate the Tower (and guy wires, if used), the equipment shelter, security fencing and buffer planting.
 - (4) Minimum yard requirements. Tower: A Tower greater than fifty (50) feet in height shall be set back a minimum distance to any single-family or two-family residential use or district lot line of two hundred (200) feet. A Tower that is equal to or less than fifty (50) feet in height shall be set back a minimum distance to any single-family or two-family residential use or district lot line equal to the height of the Tower plus twenty (20) feet.
 - (5) Access. The service to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - (6) Maximum size of equipment shelter. Four hundred (400) square feet for a single shelter, or if there is more than one, eight hundred (800) square feet.
- (c) Wireless Telecommunications Facilities Attached to an Existing Structure. A Wireless Telecommunications Facility attached to an existing structure or building shall be permitted subject to the following conditions:
 - (1) Maximum height. Twenty (20) feet or twenty percent (20%) of the building height above the existing building or structure, whichever is greater.
 - (2) If the Applicant proposes to locate the Wireless Telecommunications Facility in a separate equipment shelter (not located on, or attached to the building or structure), the equipment shelter shall comply with all of the following:
 - A. A minimum setback of fifty (50) feet from all property lines.
 - B. A buffer yard shall be planted in accordance with this Code.
 - C. Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
 - D. That maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.

(Ord. O-37-2014. Passed 12-16-14)

1179.06 - RESIDENTIAL DISTRICTS AND USES.

- ja) Wireless Telecommunications Facilities that include Towers and are subject to this chapter are not

permitted in single-family or two-family residential districts, including single-family and two-family residential districts within Planned Unit Development districts in accordance with Code chapter 1159, and any property with a residential use, or within mixed-residential districts.

- (b) Wireless Telecommunications Facilities that include Towers, and are subject to this chapter, are permitted as a conditional use on any property with an Agricultural Use, as defined by Code section 1129.02, or institutional use (e.g., religious, education, recreation, government, , utility).
- (c) Wireless Telecommunications Facilities attached to existing buildings or wireless support structures within such residential zoning districts may be allowed as a conditional use. In applying for a conditional use approval in any district, the Applicant must present sufficient evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts have been exhausted, a Wireless Telecommunications Facility may be located in a residential district subject to the following conditions:
 - (d) The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This shall apply to (b), (c), (d) and (e) below.
 - (e) Wireless Telecommunications Facilities Attached to an Agricultural or Institutional Use Structure. Wireless Telecommunications Facilities may be attached to an agricultural use structure or institutional use structure (e.g., church, school, library, park) or a wireless support structure with approval of a conditional use application by the City's planning commission that it is a permitted use in the district including, but not limited to, religious, a municipal or governmental building or facility, school building, and a building or structure owned by a utility. In addition, the following conditions shall be met:
 - (1) Maximum height: twenty (20) feet above the existing building or structure.
 - (2) If the Applicant proposes to locate any Wireless Telecommunications Facilities in a separate equipment shelter, the equipment shelter shall comply with all of the following:
 - A. The equipment shelter shall comply with the minimum property line setback of thirty (30) feet from any property line.
 - B. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - C. A buffer yard shall be planted in accordance with this chapter.
 - D. Vehicular access to the equipment shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
- (f) Tower-Located on an Agricultural Use or Institutional Use Property . A Tower to support a Wireless Telecommunications Facility may be constructed on a property with an agricultural use or institutional use that is a permitted use within the district, including but not limited to religious, school, and a municipal or government building, facility or structure, , subject to the following conditions and approval of a conditional use application by the City's planning commission:
 - (1) A Tower greater than fifty (50) feet in height , Tower shall be set back from any property line abutting a single-family or two-family residential lot by two hundred (200) feet. A Tower that is equal to or less than fifty (50) feet in height shall be set back from any property line abutting a single-family or two-family residential lot by an amount equal to the height of the Tower plus twenty (20) feet.
 - (2) The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - (3) Vehicular access to the Tower and equipment shelter shall, whenever feasible, be provided along the circulation driveway of the existing use.
 - (4) In order to locate a Tower on a property that is vacant or with an agricultural use, the tract shall be at least two and one-half (2.5) acres, or as otherwise determined by the planning

commission, unless the Tower is equal to or less than fifty (50) feet in height, then the tract shall be at least one-quarter (.25) acres, or as otherwise determined by the planning commission.

- (g) Wireless Telecommunications Facility Attached to a Multi-family Residential Building. A Wireless Telecommunications Facility may be attached to a mid-rise or high-rise multi-family apartment building subject to the following conditions and approval of a conditional use application by the City's planning commission:
- (1) Maximum height: twenty (20) feet above the existing building.
 - (2) If the Applicant proposes to locate the Wireless Telecommunications Facility in a separate equipment shelter (not located in, or attached to the building), the equipment shelter shall comply with the all of following:
 - A. The shelter shall comply with the minimum property line setback of thirty (30) feet from any property line.
 - B. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - C. A buffer yard shall be planted in accordance with this chapter.
 - D. Vehicular access to the equipment shelter shall, if at all possible, use the existing circulation system.
- (h) Tower Located in Park and Open Space. A Tower is permitted on land that has been established as a permanent Open Space or park subject to the following conditions:
- (1) The Open Space shall be owned by the City, county or state government, a homeowners association, charitable organization, or a private non-profit conservation organization.
 - (2) The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - (3) A Tower greater than fifty (50) feet in height Towershall be set back from any single-family or two-family property line two hundred (200) feet. A Tower that is equal to or less than fifty (50) feet in height shall be set back from any single-family or two-family property line by an amount equal to the height of the Tower plus twenty (20) feet.

(Ord. O-37-2014. Passed 12-16-14)

1179.07 - CRITERIA FOR A CONDITIONAL USE.

- (a) Wireless Telecommunications Facility - Tower. A Wireless Telecommunications Facility that includes a Tower and is subject to this chapter may be permitted as a conditional use in a residential or commercial district. In order to be considered for review, the Applicant must prove that a newly constructed Tower is necessary because co-location on an existing Tower is not feasible in accordance with Section 1179.08. The following steps must also be taken for the application to be considered for review in this category:
- (1) The Applicant shall demonstrate that the Tower must be located where it is proposed in order to serve the Applicant's service area. There shall be an explanation of why a Tower and this proposed site is technically necessary.
 - (2) Where the Wireless Telecommunications Facility is located on a property with another principal use, the Applicant shall present documentation that the owner of the property supports the application and that vehicular access is provided to the facility.
 - (3) The Applicant shall present a site/landscaping plan showing the specific placement of the Wireless Telecommunications Facility on the site; showing the location of existing structure(s), trees and other significant site features; and indicating type and locations of plant materials used to screen the facility, and the proposed color of the facility.

- (4) Applicant shall present a signed statement indicating:
 - A. The Applicant agrees to allow for the potential co-location of additional Wireless Telecommunications Facilities by other providers on the Applicant's structure or within the same Wireless Telecommunication Facility location; and
 - B. That the Applicant agrees to remove the facility within one hundred eighty (180) days after the Wireless Telecommunication Facility's use is discontinued.
- (b) A conditional use permit must be approved by the City planning commission with a subsequent building permit issued for construction of new Towers in nonindustrial districts. Co-location of antennas on a single Tower, antennas attached to existing structures/buildings, Towers located in industrial districts, or replacement Towers to be constructed at the site of a current Tower are permitted uses and will not be subject to the conditional use permitting process.
- (c) Any decision to deny a request to place, construct or modify a Wireless Telecommunications Facility and/or Tower shall be in writing and supported by evidence contained in a written record of the proceedings of the City planning commission.

(Ord. O-37-2014 . Passed 12-16-14.)

1179.08 - CO-LOCATION REQUIREMENTS.

- (a) Public Property First.
 - (1) In order to encourage the location of Wireless Telecommunications Facilities on publicly owned property, the City shall undertake an identification of publicly owned properties that the City determines are suitable for such use. The City shall regularly update such identification and make the results of such identification available to the public.
 - (2) Persons locating Wireless Telecommunications Facilities upon such identified publicly owned properties shall be exempt from the requirements herein regarding presentation of proof that co-location of facilities on Towers or structures owned by other Persons or in other locations is not available. However, persons locating Wireless Telecommunications Facilities subject to this chapter on publicly owned properties shall continue to be subject to the requirements contained in subsection (b) hereof. Persons locating small cell facilities on publicly owned properties in the City Right-of-way are subject to Chapter 907 of the Code.
 - (3) In addition, persons locating Wireless Telecommunications Facilities subject to this chapter on publicly owned properties identified by the City to be suitable for such purposes shall be exempt from the requirements of Sections 1179.01 and 1179.07 (a)(2).
- (b) No new Tower, unless the Tower is equal to or less than fifty (50) feet in height, shall be constructed in the City unless such Tower is capable of accommodating at least one additional Wireless Telecommunications Facility owned by other persons.
- (c) A conditional use permit shall be issued only if there is not technically suitable space reasonably available on an existing Tower or structure within the coverage area to be served. With the permit application, the Applicant shall list the location of every Tower or wireless support structure within the coverage area that could support the proposed antenna. The Applicant must demonstrate that a technically suitable location is not reasonably available on an existing Tower or wireless support structure. If another Tower or wireless support structure is technically suitable, Applicant must show that it has reasonably attempted to co-locate the Wireless Telecommunications Facility on the other Tower or wireless support structure within the City Towerbut co-location was not reasonably available on the Tower or wireless support structure.

(Ord. O-37-2014 . Passed 12-16-14.)

1179.09 ABANDONMENT OF TOWER.

- (a) All providers utilizing Towers subject to this chapter shall present a report to the city manager or

designee notifying him/ her of any Wireless Telecommunications Facility located in the City whose use will be discontinued and the date this use will cease. If at any time the use of the Wireless Telecommunications Facility is decommissioned for one hundred eighty (180) days, the city manager or designee may declare the Wireless Telecommunications Facility abandoned (this excludes any dormancy period between construction and the initial use of the Wireless Telecommunications Facility). The Wireless Telecommunications Facility's owner/operator will receive written notice from the city manager and be instructed to either reactivate the Wireless Telecommunications Facility's use within one hundred eighty (180) days, or dismantle and remove the Wireless Telecommunications Facility. If reactivation or dismantling does not occur, the City will remove or will contract to have removed the Wireless Telecommunications Facility and assess the owner/operator the costs.

- (b) The City must provide the Tower owner three (3) months' notice and an opportunity to be heard before the Council before initiating such action. After such notice has been provided, the City shall have the authority to initiate proceedings to either acquire the Tower and any appurtenances attached thereto at the then fair market value, or in the alternative, order the demolition of the Tower and all appurtenances.
- (c) The City shall provide the Tower owner with the right to a public hearing before Council, which public hearing shall follow the three (3) month notice required in Section 1179.09(b). All interested parties shall be allowed an opportunity to be heard at the public hearing.
- (d) After a public hearing is held pursuant to Section 1179.09(c), the Council may order the acquisition or demolition of the Tower. The City may require Licensee to pay for all expenses necessary to acquire or demolish the Tower.

(Ord. O-37-2014. Passed 12-16-14.)

1179.10 - VARIANCES AND SPECIAL EXCEPTIONS.

Any request to deviate from any requirements of this chapter shall require variance approval in conformance with the procedures set forth in the Zoning Code, unless otherwise required by state or federal law, rule or regulation.

(Ord. O-37-2014 . Passed 12-16-14.)

PROPOSED TEXT MODIFICATION

TITLE FIVE - ADDITIONAL ZONING REQUIREMENTS

CHAPTER 1165 - GENERAL DEVELOPMENT STANDARDS[28]

Cross reference— Gasoline service station defined - see P. & Z. 1105.02;

Home occupation defined - see P. & Z. 1105.02

1165.01 –BUILDING REQUIREMENTS.

- a) Front Yard Measurement. Front yard depth shall be measured from the right-of-way line of the street or highway to the building line.
- b) Lot Width Measurement. Lot width shall be measured along the minimum building setback line for the district within which such lot is located.
- c) Side Yard Measurement. Side yard width shall be measured from the nearest side lot line to the required side yard setback line.
- d) Rear Yard Measurement. The rear yard is measured by the entire length of the property line between the side property lines and the depth is measured as the distance between the rear property line and the required rear yard setback line.
- e) Frontage Required. No building, structure, or improvement shall be constructed or altered unless its lot fronts on a publicly dedicated and improved street or thoroughfare within the Municipality.
- f) Front Yard Requirements. All front yard space shall be maintained in accordance with the following provisions:
 - 1. Landscaped by lawns, shrubbery, trees or other plantings. Such planting shall be maintained in a neat and orderly state.
 - 2. In all districts, driveways may be located in front yards; if needed in rear yards, rear yard access is permitted off of alleys.
- g) Corner Lots. Lots fronting on more than one street shall provide the required front yard on both streets.
- h) Architectural Features. Cornices, canopies, eaves, pilasters, sills , stairs or other architectural features may project into a setback no more than three (3) feet with a minimum of two (2) feet maintained to any adjoining lot line.
- i) Functional Features. Mechanical services or units incidental to the operation or use of the principal building, not exceeding seventy-two (72) inches in height, egress windows, mechanical pits, stairs, and generators and similar items may project into a setback no more than five (5) feet with a minimum of two (2) feet maintained to any adjoining lot line.
- j) Rural Setbacks. All buildings should respect the setbacks of all rural designated roads established in the Village's Strategic Plan.

1165.02 - HEIGHT.

Height regulations specified in the various zoning districts shall not apply to chimneys, tanks, cupolas, domes, spires, or similar structures attached provided that the height of all structures and buildings, including those mentioned above, shall not constitute a hazard to safe landing and take-off of aircraft from an established airport.

(Ord. 27-2007. Passed 8-21-07.)

1165.03 - ACCESSORY USES OR STRUCTURES.

"Accessory structure" means a subordinate structure or surface, located on the same lot as a principal building/structure, which is incidental to the use of the principal building/structure. Accessory structure are categorized into two groups: Detached Accessory Structures or Recreational Accessory Accommodations.

(a) Detached Accessory Structure. Includes detached garages, enclosed, accessory buildings larger than 200 square feet, pool houses, and other structures not considered to be Recreational Accessory Accommodations located in a residentially zoned districts and shall comply with the following requirements:

(1) Area. For lots less than one acre, a structure may have an area up to 800 square feet; for lots between one acre and two acres structures may have an area up to 1,200 square feet, and for lots larger than 2 acres structures may have an area up to 1,600 square feet.

(2) Location.

A. Shall not project beyond any front elevation of the primary structure or located within the front yard;

B. Shall be located at least ten (10) feet from the primary structure situated on the same lot; and

C. Shall not be located within an easement.

D. Shall not be located nearer to any side or rear property line than fifteen feet (15').

D. 2 Shall not be located nearer to any side or rear property line found within the zoning district, except for the R-1 zoning district which must match R-2 standards.

(3) Height. Shall not exceed the height of the primary structure and in no case shall exceed twenty-five (25) feet in height.

(4) Materials. All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, slate or wood shingles. All other finished surfaces must be complementary to the primary structure and be wood, brick, composite siding or any combination thereof.

(6) No detached accessory structure shall be erected or constructed prior to the erection or construction of the principal or main building, except in conjunction with the same.

(b) Recreational Accessory Accommodations. Includes buildings which are 200 square feet or less; and any sized deck, patio fireplace, pergola, gazebo and similar located in a residentially zoned district and shall comply with the following requirements:

(1) Materials. All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, slate or wood shingles. All other finished surfaces must be wood, brick, composite siding, screen, or any combination thereof.

(2) Lighting: Illumination of the open-sided structure exterior is prohibited. Illumination within an open-sided structure shall not exceed seventy (70) foot-candles measured at a horizontal plane three (3) feet above the finished floor.

(3) Location.

A. Shall not project beyond any front elevation of the primary structure or located within the front yard;

B. Shall not be located within an easement.

C. Shall not be located nearer to any side or rear property line than ten feet (10'), except uncovered porch/paved terrace may be located up to five (5) feet away from any side or rear property line.

D. An open, uncovered porch/paved terrace may not project into the required front yard for distance of greater than fourteen (14) feet.

(4) Height. All Recreational Accessory Accommodations are limited to one (1) story; and the height to the top of the highest roof ridge beam, or to the highest point of any other roof form, from the finished floor may not exceed fifteen (15) feet.

(5) No recreational accessory accommodation shall be erected or constructed prior to the erection or construction of the principal or main building, except in conjunction with the same.

(6) Additional Restrictions for Accessory Accommodations.

(A) Decks. A deck is an accessory structure and is further defined as a horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces. Decks shall comply with the following requirements:

(1) The area below a deck which exceeds more than two (2) feet above grade at any point within six (6) feet of the deck's perimeter shall be screened;

(a) Second story decks, which are decks with a minimum of seven (7) feet of head-room from the ground to the deck, are exempt from this requirement.

(2) Decks which encroach into the required rear yard shall have no walls or roof planes, or permanently attached benches, seats, or other structures of any kind, weatherproof or not, except a guardrail which may be up to forty-two (42) inches in height above the top of the deck. The handgrip portion of the rail shall not be more than three and one-half (3 and 1/2) inches in width, if the handgrip is flat.

(3) All decks shall be attached or contiguous to the principal structure or principal building;

(B) Open-Sided Structures. An open-sided structure is defined as a free-standing, unheated structure unenclosed except for a structural system supporting a roof, and screen panels which may be used to enclose the open spaces between structural elements. An open-sided structure includes but may not be limited to a gazebo, tent, pergola, canopy or trellis. An open-sided structure must meet the following minimum design criteria:

(1) Measurement: The area of all open-sided structures shall be measured post-to-post.

(2) Grading: If the open-sided structure is built on a mound, deck, or other elevated surface, the height of this elevated surface at its highest point above grade shall be added to the height of the structure to determine the overall height of the open-sided structure measured. Elevated surface is defined as an artificial rise or elevation above the natural grade of the surrounding ground created with earth, rock, wood or other material.

(Ord. 29-2001. Passed 8-21-01; Ord. 27-2007. Passed 8-21-07.)

1165.04 - MINIMUM FLOOR AREA REQUIREMENTS.

No single-family residential dwelling shall have floor area of less than one thousand two hundred (1,200) square feet. No two-family dwelling shall have floor area of less than eight hundred fifty (850) square feet for each family. No multiple family dwelling shall have a floor area of less than eight hundred (800) square feet for each family.

(Ord. 72-92. Passed 12-15-92; Ord. 27-2007. Passed 8-21-07.)

1165.05 - CONNECTIVITY.

The following regulations shall apply to all new development. For the purposes of this section, "new development" shall be any construction involving the replacement of an existing primary structure, construction on a site currently without a primary building or when a commercial parking area is being repaved or constructed.

(a) Sidewalks.

(1) Sidewalks are required along all public rights-of-way unless a leisure trail is required. The minimum sidewalk width shall be five (5) feet or greater as determined by the width of existing sidewalks.

(2) Sidewalks shall be constructed per the Village standard and made of concrete, brick, stone, simulated stone, or simulated brick. The design and installation of sidewalk paving materials other than concrete shall be in accordance with manufacturer recommendations and are subject to Village Engineer and Community Development Department approval. Simulated materials shall correctly simulate appearance of brick or stone.

(b) Leisure Trails.

(1) Leisure trails shall be constructed along streams and roads in accordance with the Village's Strategic Plan or as otherwise required.

(2) Leisure trails shall be asphalt and have a minimum width of eight (8) feet unless otherwise specified by the Community Development Department. All leisure trails shall be constructed per the Village standard.

(c) Fees In-Lieu of Sidewalk and Trail Construction. Where special circumstances exist for sidewalk and trail construction as required in divisions (a) and (b) of this section, a fee in-lieu may be considered according to the procedure in Section 1187.18.

(d) Where there are open spaces between buildings, excluding single-family and town homes, pedestrian connections shall be established between rear parking areas and the sidewalk in front of the building.

(Ord. 27-2007. Passed 8-21-07; Ord. 06-2009. Passed 3-17-09.)

1165.06 - HOME OCCUPATIONS.

Home occupations or professions shall be regulated as permitted, accessory, or conditional uses pursuant to Chapters 1129 through 1139. A home occupation shall comply with the following standards:

(a) The use shall be clearly incidental and secondary to residential use of the dwelling and not more than 15 percent (15%) of dwelling unit floor area is devoted to the home occupation.

(b) The home occupation shall not generate greater traffic volume than is normal for a residential neighborhood.

(c) Not more than one person, other than immediate family residing at the premises, shall be employed in such occupation.

(d) External indication of such home occupation shall be limited to one non-illuminated sign, not more than two (2) square feet, attached flat against the structure.

(e) The sale of products, stock, or commodities shall be limited to those produced on the premises.

(f) Any need for parking generated by conduct of the home occupation shall meet off-street parking requirements of this Zoning Code, and shall not be located in any front yard.

(g) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal sense off the lot, if the occupation is conducted in a single-family residence; or outside the dwelling unit if conducted in other than a single-family residence.

(h) No home occupation shall be conducted from any accessory building on the lot.

In particular, a home occupation shall consist primarily of rendering specific personal services, such as those performed by a seamstress, member of the clergy, physician, dentist, lawyer, engineer, architect, accountant, artist, or private teacher. The home occupation shall be performed by the occupant of the premises and shall include employment of not more than one non-resident of the premises.

(Ord. 27-2007. Passed 8-21-07.)

1165.07 - GASOLINE SERVICE STATION.

Gasoline service stations, or retail establishments selling gasoline as an ancillary activity, are listed as conditional and permitted uses in the C-1, C-2, and C-3 zoning districts. In addition to the requirements of the district in which the gasoline service station is located, and other provisions of this Chapter, such establishments shall be subject to the following requirements:

(a) Minimum Lot Size . Twenty thousand (20,000) square feet.

(b) Minimum Building or Structure Size . The building shall have an enclosed area of not less than eight hundred (800) square feet if any service is offered on or from the premises other than the delivery of gasoline, diesel fuel or oil for use as vehicle fuel or lubrication. If a gasoline service station offers no service other than the delivery of gasoline, diesel fuel or oil into vehicles, the enclosed area of the building shall not be less than six hundred (600) square

feet. No such limited gasoline service station may offer to provide lubrication, oil changes, repairs, or other equipment installation.

(c) Minimum Frontage . The lot on which a gasoline service station is located shall have frontage of not less than one hundred fifty (150) feet along a dedicated and improved street designated as not less than minor arterial status on the New Albany Thoroughfare Plan. If a gasoline service station is located on the corner of two (2) or more intersection streets, it shall have one hundred fifty (150) feet of frontage on each intersecting streets.

(d) Location . No gasoline service station shall be located on any lot within two hundred (200) feet of any zoning district where residences are permitted.

(e) Setbacks . The pump island setback in a gasoline service station, which shall be the minimum location for pumps dispensing fuel or oil products, shall be forty (40) feet from any right-of-way of any street, and forty (40) feet from any adjoining property line. Any building located on such premises shall be located not less than fifty (50) feet from the right-of-way of any street.

(f) Driveways and Parking Areas . Driveways and parking areas shall be paved and properly drained. The landscaping of areas along the perimeter of the lot is required, pursuant to Chapter 1171.

(g) Parking . Gasoline service stations shall be subject to the parking and loading provisions of Chapter 1167. In addition, no inoperable or damaged motor vehicle shall be parked outside a gasoline service station building in excess of seventy-two (72) hours. Parking areas shall be located not closer than five (5) feet to the main building.

(h) Outside Storage . Outside storage shall be in accordance with the following requirements:

(1) All vending machines, except ice machines and telephone booths, shall be located inside the main building.

(2) Only one permanent or one portable display rack for oil, antifreeze, or other automotive products shall be permitted on each pump island. No such rack shall be located closer than twenty-five (25) feet to the street right-of-way line or adjoining property line. All other displays or merchandise outside the main building is prohibited.

(3) All hydraulic hoists, oil pits, lubricants and greasing, and other repair equipment shall be enclosed completely within the main building.

(i) Signs . All signs used in connection with gasoline service stations shall be in conformance with the regulations for general retail and commercial uses as specified in Chapter 1169.

(Ord. 27-2007. Passed 8-21-07.)

1165.08 - MODEL HOME STANDARDS.

Residential model homes and temporary lot sales offices are newly-constructed homes or temporary structures placed in a newly-constructed subdivision and used by a homebuilder or developer to display home styles and lot availability in a subdivision to promote the sale of new housing units. The model home or sales office may be staffed and furnished.

(a) When making its decision to approve, disapprove or approve with conditions an application for a residential model home, the Planning Commission shall consider that the model home:

(1) Is appropriately located within the community and sited so that it is easily accessible without creating a nuisance or hazard to nearby properties.

(2) Is integrated into the residential character of the neighborhood with external lighting in conformity with customary residential lighting.

- (3) Is approved with a limited duration which shall be determined by the Planning Commission after consultation with the applicant. Extensions of time may be granted by the Planning Commission, but decisions must be based on the same criteria as outlined in this section.
 - (4) Is identified by no more than one sign which shall be in compliance with regulations governing signage.
 - (5) Shall not be used as a general real estate brokerage office where the sale of properties not owned or previously owned wholly or in part by the applicant occurs.
 - (b) The Planning Commission shall also consider and may set conditions on the following as part of its decision to allow a residential model home:
 - (1) Hours of operation.
 - (2) Number and types of employees; and maximum number of employees to be on the site at any one time.
 - (3) Provisions for parking for employees and customers.
 - (4) Size, lighting, content and location of signage (no internally lighted signage shall be permitted).
 - (5) Landscaping and screening.
 - (6) The use of temporary sales offices (i.e., manufactured homes, mobile homes or trailers) on the site of a newly constructed subdivision shall be discouraged.
 - (c) In addition to the above-listed criteria for model homes, permission to occupy a temporary sales office for the purpose of home and lot sales within a newly constructed subdivision shall be granted only if the following conditions are met:
 - (1) Such facility is located on a main arterial roadway or highway.
 - (2) Such facility is substantially screened by the use of landscaping and/or mounding.
 - (3) Such facility shall not create a nuisance to surrounding properties.
 - (4) Such other conditions as the Planning Commission deems appropriate.
 - (5) Sales offices in trailers or mobile homes are permitted for a duration of twelve (12) months. Users of such facilities may apply to the Planning Commission for an extension of an additional twelve (12) months.
- (Ord. O-08-2011. Passed 5-17-11.)