



## Planning Commission

### Meeting Minutes

May 20, 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 7:05 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Present
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wilttrout	Present
Mr. Sloan Spalding (council liaison)	Present

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

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

Mr. Christian replied there were none from staff.

Mr. Kirby stated he would like to renumber some of the cases for the benefit of the audience. Mr. Kirby noted the three (3) Engelfield Oil public hearing items, CU-33-2019, FDP-34-2019, and VAR-35-2019, were to be heard after the discussion of the re-zoning near Jug Street.

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**

**Reconsideration of the variance request 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 explained this variance request had been heard at the prior Planning Commission meeting on April 15, 2019 where the application was denied due to a vote of 2-1-1 (2 yes, 1 no, and 1 abstention). Mr. Christian noted that at the time of the vote it was unclear if the application had been approved or denied and the homeowner also

inquired about the possibility of a reconsideration. In consultation with the City Law Director staff determined the Planning Commission could vote to bring the case back for reconsideration in accordance with City Code 159.06(c). Mr. Christian noted the Planning Commission voted to reconsider VAR-23-2019 on May 6, 2019.

Mr. Christian presented the staff report. Mr. Christian stated the applicant had provided a copy of a letter of agreement from the neighboring property owner to staff and the Planning Commission.

Mr. Kirby asked to hear from the Applicant.

Mr. Michael Sutherland, the property owner, stated he had provided a letter of agreement from the neighbor in support of the variance and that he had measured the distance from the edge of the window pane to the edge of the house to be sixteen (16) inches, so the encroachment was less than two (2) feet into the easement. Mr. Sutherland requested formal approval.

Mr. Kirby asked for any questions or comments from the public. (No response).

Mr. Kirby asked staff if the conditions from the prior motion were available.

Mr. Christian replied he did not have the record of action available, but based on his recall there were two conditions: (1) that a written letter of agreement from the neighboring property owner had to be provided to the city and (2) that the fireplace had to be brought in to the edge of the window pane.

Mr. Sutherland stated that was his recollection as well.

Mr. Kirby stated that was also his recollection.

Moved by Mr. Wallace to accept the staff report and related documents into the record, seconded by Mr. Schell. Upon roll call vote: Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrout, yea; Mr. Shockey, yea, Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Shockey asked for conditions to be re-stated.

Mr. Christian stated he did have the conditions and distributed them to the Planning Commission.

Mr. Kirby stated the letter of concurrence and that the fireplace be brought to the edge of the windowpane were noted.

Mr. Shockey asked why the fireplace must be brought to the edge of the windowpane.

Mr. Kirby replied that would minimize the encroachment.

Moved by Mr. Kirby, to approve VAR-23-2019 based on the findings in the staff report and subject to the following 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. Wallace. Upon roll call: Mr. Kirby, no; Mr. Wallace, no; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, yea. Yea, 3; Nay, 2; Abstain, 0. Motion passed by a 3-2-0 vote.

### **ZC-38-2019 Zoning Change**

**Rezoning of 484.4 +/- acres from Agricultural (AG) to Limited General Employment (L-GE) for an area generally located to the north of Jug Street, east of Beech Road, south of Miller Avenue and west of Clover Valley Road (PID: 037-111756-00.00, 037111756-00.002, 037-111750-01.000, 037-111756-00.001, 037-111594-00.002, 037-111612-00.001, 037-111606-00.001, 037-111618-01.000, 037-111618-02.000, 037-111594-00.001, 037-111342-00.000, 037-111618-05.000, 037-111618-04.000, 037-111618-03.000, 037-112266-00.000, 037-111756-00.002, 037-111606-00.000, 037-1115-00.000).**

**Applicant: MGJ Holdings LLC c/o Aaron Underhill**

Mr. Mayer indicated this zoning change had been informally heard by the Planning Commission on May 6, 2019 where the applicant informed the residents who attended the meeting that a neighbor meeting was planned for May 13, 2019. Mr. Mayer indicated that since that time the applicant had provided additional changes and more restrictions on the proposed rezoning to address the neighbors' comments heard at the May 13, 2019. Mr. Mayer stated an updated site plan was being presented this evening.

Mr. Mayer presented the staff report and noted that staff recommended a condition of approval to say that any type of above ground utility, equipment, or anything above ground would trigger the need to provide screening, so not just buildings or pavement would require screening. Mr. Mayer stated another staff recommended condition was that any lighting on the site had to be on the site and not spill or bleed offsite onto residential property.

Mr. Kirby asked Mr. Mayer to discuss the additional screening requirement condition.

Mr. Mayer replied that the initial condition only required applicant to install mounding and landscaping if they were within 500 feet of a street or residential area and said this was increased to 800 feet and, in addition, any type of construction of above ground equipment and utilities installed within 800 feet of a perimeter boundary now qualify for landscape and screening requirements.

Mr. Wallace asked if that was condition 2 on the staff report.

Mr. Mayer indicated it was.

Mr. Mayer noted that the walkability of a development is preferred and that the text currently requires an internal pedestrian walkway system of sidewalks, staff recommends that requirement also apply to warehouse, distribution, research, and production uses. Mr.

Mayer also stated data centers were not included in this, because the understanding is that they have security uses.

Mr. Kirby asked if there was any engineering at this stage.

Mr. Ferris replied the recommendation was that the right-of-way, as mentioned in the report, be followed and be sixty (60) feet on Jug Street and one hundred (100) on Beech Road. Mr. Ferris also noted that a traffic study prior to development was recommended.

Mr. Aaron Underhill, attorney for the applicant, stated that residents who were unable to attend the applicant's May 13, 2019 meeting had met with Mr. Tom Rubey and himself on May 9, 2019 to provide questions and comments. Mr. Underhill stated the applicant had a meeting with residential property owners on May 13, 2019 at Innovate New Albany and noted that on May 16, 2019 the applicant had a follow-up meeting with New Albany staff.

Mr. Underhill noted the desire to maintain the rural character of the location and provided a list of updated commitments to help keep the rural character and protect neighbor interests as much as possible. Mr. Underhill stated the applicant would conduct an initial traffic study based on assumptions regarding how the site may be used and then, as subsequent phases occurred, staff could determine if a new traffic study was required due to a material change in the initial assumptions used for the first traffic study.

Mr. Underhill stated set-backs around residential property had been increased based on building heights. Mr. Underhill noted mounding height had been increased and lighting poles would be reduced in height from thirty (30) feet to eighteen (18) feet. Mr. Underhill stated the trigger for the requirement to mound was any improvement within 800 feet.

Mr. Kirby asked if there were any conflicts with the conditions in the staff report.

Mr. Underhill noted that for condition 1 the need for an internal circulation system should apply only to primary uses, not ancillary uses.

Mr. Kirby asked Mr. Mitch Banchefsky if the slides presented by Mr. Underhill in his discussion were part of the documents accepted into the record for the zoning change.

Mr. Banchefsky replied yes.

Mr. Kirby asked if the limitation text was dated May 14, 2019.

Mr. Underhill replied that was correct.

Mr. Kirby noted that on page 10 of the limitation text there appeared to be a missing paragraph, letter c, as the text included provisions a, b, and then went to d, and added that if the text was updated he asked that the internal references be kept.

Mr. Underhill replied that he would clean the text for City Council.

Mr. Kirby asked if there was to be no mounding in the conservation area.

Mr. Underhill stated that was correct.

Mr. Kirby asked if the applicant had control of the adjacent property to the east.

Mr. Underhill replied no.

Mr. Kirby inquired about vehicular circulation plans, especially in the case of multiple users.

Mr. Tom Rubey replied that the zoning text had been amended so the city has the ability to require a traffic analysis on a case-by-case basis.

Mr. Kirby asked if it were possible that as things were permitted potential spots for easements or public roads for multiple users be identified before the first user was approved so that staff has that in place.

Mr. Mayer replied that such a condition could be put in place once the language was properly established.

Mr. Rubey asked if this meant that if one (1) property came in to be developed, that the applicant would come to the city with a plan that included a potential public road network that would service the entire parcel.

Mr. Kirby replied yes.

Mr. Rubey replied that might involve a guessing game, but the applicant would do the best possible.

Mr. Kirby stated that vehicular circulation plans were part of the initial plans in a multi-use scenario.

Mr. Rubey noted that an adjacent parcel, drawn in the plans with a black line around it, which had lagged behind in the annexation process, had been annexed and the applicant would be back before the Planning Commission for the adjacent parcel.

Mr. Kirby noted that the text includes language that once the parcel is combined then the boundaries disappear and the site is unified.

Mr. Kirby asked if there had been any requests for alternatives to mounding for screening purposes from the neighbors.

Mr. Rubey stated there had been a lot of discussion on that topic.

Mr. Kirby noted that if a preference for alternative forms of screening existed then the zoning text had to include that language.

Mr. Rubey replied that certain zones, "yellow zones," where mounding was not the only solution had been identified on the plans.

Mr. Wallace noted that the preference is to line up curb cuts with existing roadways and asked why on this development the curb cuts along Beech Road were not lined up with the existing intersection at Fitzwilliam Lane and may have a second opening and access point to the south or north, or both, of Fitzwilliam Lane which may lead to three (3) potential points of egress on the roadway.

Mr. Mayer replied that the recommendation is normally to combine curb cuts to have as few access points to public roads as possible, but in this case, if the zoning text did not allow the curb cuts to align, the 650 feet and 450 feet of separation from Fitzwilliam Lane is thought to provide sufficient space to avoid conflicts. Mr. Mayer also noted that the traffic study in the text could require a greater distance than that currently proposed to ensure there is no conflict with the intersection.

Mr. Kirby asked if the sight line distance and curb cut spacing for fifty (50) miles per hour were available.

Mr. Dave Samuelson, senior traffic engineer with EP Ferris, replied that while he could not recall the different types of roads related to the spacing of driveways. Mr. Samuelson stated the distance could be one (1) or one-half (0.5) mile spacing on major roads but on more local roads such as Beech Street or Jug Road, the distance could be less, more in the 500 or 400 foot range. Mr. Samuelson noted this question was what a traffic study would be determining.

Mr. Kirby stated there is a need to avoid conflicts with left turns on Fitzwilliam Lane.

Mr. Mayer said yes, there is a need to avoid turn lane conflicts.

Mr. Kirby noted the need to avoid having a person be required to turn left while facing an oncoming left turn lane.

Mr. Mayer replied that Mr. Ferris and Mr. Samuelson will do this research to investigate conflicts with opposing traffic as part of their traffic analysis.

Mr. Kirby asked if that would be included if the conditions for this were to include the engineer's comments.

Mr. Mayer replied yes.

Ms. Wilttrout asked for an explanation of the process of adding an egress road along the perimeter of the property; what process would be triggered if development started and there would be a curb cut on one of the major roads.

Mr. Rubey replied the applicant would need to come to the city before any development with a traffic analysis. Mr. Rubey stated the standards would vary based on the use of the property, noting that different impacts will be considered depending on whether there are multiple developers versus a single developer of the property.

Mr. Kirby stated that the absolute fail scenario would be a missing easement as that may impede access.

Ms. Wilttrout asked if a right-of-way would not be available.

Mr. Underhill stated that a title insurance inspection would reveal the existence of easements.

Mr. Kirby stated that the first buyer on the lot would not be mandated to grant access.

Mr. Kirby asked if Blacklick Creek is not going through the triangular area established on the development plans by the applicant.

Mr. Rubey replied that Blacklick Creek clips the northeast corner of the triangular area on the plans.

Mr. Kirby asked if mounding would deal properly with the tributary to Blacklick Creek.

Mr. Rubey stated it did.

Mr. Kirby stated there would be a channel for the Blacklick Creek tributary. Mr. Kirby noted that while looking at the land the main channel to Blacklick Creek appeared to be close to the road.

Mr. Rubey replied that residents drive over the creek.

Mr. Kirby stated care had to be taken with the drainage.

Mr. Rubey replied that not only above ground drainage but also below ground drainage are being documented to handle this properly.

Mr. Kirby asked if this would be part of the engineering.

Mr. Rubey replied yes.

Mr. Kirby asked members of the public for their questions and comments.

Mr. Michael Grenert, a resident of Fitzwilliam Lane, asked if there would ever be a traffic study with a possibility of a need to have a left turn lane for Fitzwilliam Lane.

Mr. Rubey replied that this could not be known at this time.

Mr. Grenert stated he was worried about noise and was glad mounding was to be extended a little bit, as he would like to see mounding about twenty feet high. Mr. Grenert noted he was most concerned about the sound tractor trailers make when backing up and he believed ground would be more effective than trees at keeping down the noise level and that such benefit would be available immediately, as it would not with trees. Mr. Grenert added that if trees were used he would prefer evergreen trees be used to better block sound.

Ms. Gwen Bando asked about the perimeter preservation area.

Mr. Underhill replied that was meant to show an opportunity for trees and added that to the extent the screening requirements were not met they would also add mounding.

Mr. Matt Bonito asked if he could obtain a copy of the slides being shown at this Planning Commission meeting.

Mr. Underhill replied yes.

Mr. Bonito asked if the houses and trees in the "yellow area" shown on the slides would be taken down and how the grading and planting in the area would be done.

Mr. Rubey replied that when the houses are taken down there would need to be re-grading done as part of the preservation zone. Mr. Rubey stated the applicant would then return to the city with a landscape plan that would show the grading and mounding and at that time the decision whether additional plantings would be done or not would be made.

Mr. Underhill noted the comments and preferences of residents were requested.

Mr. Shell asked what tree types would be installed, noting that one of the recommendations had been for evergreen trees.

Mr. Kirby stated he thought a mix of tree types would be used.

Mr. Rubey replied that residents have said they want to see more evergreen trees and that the applicant would work with staff on this. Mr. Rubey said this was an area of thousands of lineal feet for the landscape plan, and suspected they would do what fit best with the adjacent properties in terms of mounding, planting, storm water detention basins, and other things in relation to how they fit in this site. Mr. Rubey noted that work with the city's landscape architect would be necessary, but that he had heard residents say they preferred evergreen trees near their properties and homes.



Mr. Underhill noted that based on the applicable definitions involving year-round requirements evergreens would be needed.

Mr. Kirby asked if there were any leisure trails on Jug Street or Beech Road.

Mr. Mayer replied that city codified ordinances require, as part of the improvements, that leisure trails along Jug Street and Beech Road be included, as well as on any other internal roads.

Mr. Wallace stated there was no need to include this in the text if it was already in the city ordinance.

Mr. Mayer stated that was correct.

Ms. Athena Voda, a resident on Harrison Road, stated she was curious about the water system, water drainage, and the creek. Ms. Voda stated most of the water flow is downhill. Ms. Voda noted that given ground water levels and construction, as well as the preservation, how will the water flows that now create a creek on Beech Road that streams down and forms all the way along Harrison Road be maintained, redirected, or where will it flow to when construction starts.

Mr. Kirby noted that the general rule is that a property owner cannot change a neighbors' drainage, but said the experts should speak to that.

Mr. Todd Cunningham, of EMH&T, Inc., said the applicant had done a detailed analysis of where the drainage patterns are currently and as the site is developed the applicant is required to maintain those drainage patterns. Mr. Cunningham added that as the applicant obtained better information, whether geotechnical for subsurface, or field topography, or crews on the ground, it would be addressed as part of engineering when the site develops

Ms. Voda asked if this was done for each individual developer as parcels are sold or just for the site development all together.

Mr. Cunningham replied the process typically starts with a master plan for the entire site so as each parcel is developed they can see how that affects the entire plan. Mr. Cunningham stated that if easements are needed for drainage that should not be a problem.

Ms. Voda asked if the study would show where the water would drain to.

Mr. Cunningham replied that to the degree that could be studied, yes.

Ms. Voda asked if the study would be public or private.

Mr. Cunningham replied that as the information becomes available the applicant would share it to the degree that they could and noted that the best would be to contact city staff for information.

Mr. Mike Armentrout, a resident on Bermuda Drive, stated he appreciated the plan to increase mounding size, but wondered if long term the mounding, due to the existing conditions on the land, would create a problem with how water was retained and/or drained from or to the surrounding properties. Mr. Armentrout noted that adjacent owners did not want the view of a developed parcel and mounding would help that, but stated he and other property owners would prefer to avoid building something there altogether.

Mr. Kirby asked applicant how suitable the triangular area on the plan was as a storm water detention/retention area.

Mr. Cunningham replied that was approximately fifty (50) acres of the northeast corner of the site that drains to the tributary mentioned earlier in this meeting. Mr. Cunningham noted he had been to the area on May 17, 2019 with Mr. Petty, a homeowner adjacent to the area, and walked the property. Mr. Cunningham stated there was currently a fair amount of surface drainage from the fifty (50) acres that flowed into the yards and that putting a mound there would ostensibly block the surface drainage. Mr. Cunningham noted this was beneficial to the applicant as they have to collect that water, retain it, and control its release rate according to city regulations; once that is done, Mr. Cunningham added, the studies are public records available for inspection.

Mr. Kirby asked about periodic maintenance checks on ponds to ensure they are not leaking.

Mr. Cunningham stated property owners who notice their ponds are leaking during construction will normally contact developer if they are experiencing a problem, and there are things that can be done if leaking occurs.

Mr. Kirby asked about regular testing to check for leaks.

Mr. Rubey stated this was a unique property with the location of storm water retention, basins, Blacklick Creek, the preservation zone, and subsurface issues identified by neighbors as well as other factors. Mr. Rubey stated there are a series of obligations that are gone through in the building and permitting process that deal with all of these things and how they are handled with the ultimate decision contingent on the city engineer and staff reviewing and approving the integrity of the designs.

Mr. Kirby asked whether, in particular given the gravel seams and, should there be detention near Blacklick Creek, where a subsurface problem could occur, there be regular checking to prevent problems.

Mr. Cunningham replied that issues such as those on this property have previously been addressed in other development areas.

Mr. Kirby asked if, not burdensome, the quality of the work involving these things could be regularly evaluated.

Mr. Cunningham replied that the City of New Albany provides an additional level of inspection because it requires facilities, if not inspected by the property owner, to be inspected by the city to ensure things are functioning properly.

Mr. Kirby asked if there was a schedule for that inspection

Mr. Mayer stated there was on a rotating schedule for the inspection of storm water pumps.

A member of the public identified himself as Steve, stated he was a resident of Bermuda Drive, and asked who future noise problems would be addressed to if they arose.

Mr. Mayer stated that residents could contact the Community Development Department, if the noise is a nuisance the police could be called, and noted that staff was happy to speak about these concerns and try to address any concerns once development occurs. Mr. Mayer noted the level and type of complaint would affect who should be contacted.

Mr. Kirby noted this issue had been fixed for other folks and that while the process may not arrive at an instant fix it normally does work.

Mr. Wallace stated that the public could also attend a meeting of the Planning Commission to bring those issues up for discussion.

Mr. Shockey stated that was a good point.

Mr. Kirby stated he had two (2) additional conditions saying the fifth (5th) condition is that vehicular circulation is part of the initial plans in a multiuser scenario and the sixth (6th) condition is that the engineering of a right-of-way for Jug Street and Beech Road be part of traffic studies to the satisfaction of the engineering staff.

Ms. Wiltrout asked if this included the proposed modification for the first condition that the need for an internal circulation system should apply only to primary uses, not ancillary uses.

Mr. Kirby thanked Ms. Wiltrout and stated the first condition should be modified to refer to primary uses.

Moved by Mr. Wallace to accept the staff report and related documents into the record for ZC-38-2019, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Schell, to approve ZC-38-2019 based on the findings in the staff report and subject to the following conditions:

1. The creation of an internal pedestrian circulation system be required for research & productions and warehouse & distribution uses in addition to office uses for primary uses;
2. Any construction of above ground equipment and utilities installed within 800 feet of a perimeter boundary qualify for the phased landscape and screening provision in the text;
3. A comprehensive landscape plan that incorporates mounding, tree preservation, plantings, screening and stormwater ponds will be developed, meeting or exceeding the requirements of the Beech Road South Landscape Plan. The plan will be reviewed and approved by the city landscape architect;
4. There shall be no light spillage permitted on residential properties;
5. Vehicular circulation is part of the initial plans in a multiuser scenario; and
6. The engineering of a right-of-way for Jug Street and Beech Road are part of the traffic studies to the satisfaction of the engineering staff.

seconded by Ms. Wilttrout. Upon roll call: Mr. Schell, yea; Ms. Wilttrout, yea; Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Schell thanked residents and applicant for their work on this matter.

Mr. Kirby also thanked neighbors and the applicant for their work on this matter.

Mr. Kirby called for a five (5) minute break period.

#### **CU-33-2019 Conditional Use**

**Conditional use application to allow a gas station to be developed as part of the Englefield Oil final development plan (PID: 222-004730-00).**

**Applicant: EMH&T c/or Katie Miller**

#### **FDP-34-2019**

**Final development plan for the Englefield Oil development located at the corner of US-62 and Theisen Drive (PID: 222-004730-00).**

**Applicant: EMH&T c/or Katie Miller**

#### **VAR-35-2019 Englefield Oil Variances**

**Variances associated with the final development plan for the Englefield Oil development located at the corner of US-62 and Theisen Drive (PID: 222-004730-00).**

**Applicant: EMH&T c/or Katie Miller**

Mr. Kirby called the meeting to order after the break period.

Mr. Christian presented the staff reports for CU-33-2019, FDP-34-2019, and VAR-35-2019 at the same time. Mr. Christian noted that while normally only the Architectural Review Board (hereafter, "ARB") would review and approve a final development plan, the PUD zoning text requires both the ARB and the Planning Commission to review and approve. Mr. Christian also stated that condition use application and a variance application can only be reviewed and approved by the Planning Commission.

Mr. Kirby asked what the property was currently zoned as.

Mr. Christian replied the property was zoned by the Urban Center Code which permits mixed uses

Mr. Mayer stated it was the form based code and typically there is a mixture of uses. Mr. Mayer stated the property that is the closest, the Plain Township Fire Department, permits residential in addition to public services such as the fire department.

Mr. Wallace asked what the distance was to the closest actual residents.

Mr. Christian replied that it was greater than 500 feet away in the Windsor subdivision.

Mr. Christian stated that the ARB had questions regarding deceleration for the curb cut on US-62 and had requested the curb cut be modified from 35 feet to forty (40) feet, but noted staff, in consultation with city engineers, supports the 35 foot curb cut.

Mr. Kirby commented that if the design was for a barn vernacular, a post and beam barn would have 45 degree elements near the top that might help the design look more like a barn.

Mr. Shockey asked what the time frame would be for the right-in/right-out curb cut and the US-62 curb cut being reviewed by ODOT.

Mr. John Gordon, of Englefield Oil, Inc., stated his understanding was that the city planned to extend the leisure trail down to US-62 and at that time would also like to reduce the speed from fifty (50) miles per hour to 35 miles per hour. Mr. Gordon stated that once that was accomplished the city would approach ODOT about the curb cut on US-62.

Mr. Shockey asked Mr. Mayer when the application for the curb cut on US-62 would occur and whether there was any chance it would not be approved.

Mr. Mayer stated that was not yet known. Mr. Mayer explained that the city had created preliminary engineering plans for improvements to US-62 and Theisen Drive which include signaling US-62 and Theisen Drive as well as the installation of bike and leisure trails along US-62. Mr. Mayer stated the city engineering staff would be meeting with ODOT on Tuesday, May 21, 2019 to introduce this topic. Mr. Mayer noted this matter was a city matter separate from the Englefield Oil development although it did assist its development.

Mr. Shockey stated he did not see how a right-in/right-out only curb cut on Theisen Drive could be required without the benefit of a right-in primary entry on US-62.

Mr. Mayer stated the city traffic engineer, Mr. Samuelson, could provide additional information on the issue.

Mr. Samuelson stated normally the applicant would apply to ODOT for the curb cut and noted he could not speak for ODOT regarding the speed reduction. Mr. Samuelson stated for the first curb cut on Theisen Drive there is a concern that as Theisen Drive is extended and traffic increases more drivers will want to turn left from Theisen Drive onto US-62 and create a longer line of cars at the first curb cut. Mr. Samuelson stated that in addition, when motorists southbound on US-62 are turning left onto Theisen Drive and attempt to turn into the first curb cut it is only 135 feet of space and if a truck is there, such as a fire truck, traffic would back up close to US-62. Mr. Samuelson stated a traffic study to look at this issue, with and without a curb cut along US-62, has been requested. Mr. Samuelson stated that regardless of the existence of a curb cut along US-62, the recommendation for a right-in/right-out only on Theisen Drive remains.

Mr. Shockey asked if then the second curb cut on Theisen Drive would be used as the primary entry.

Mr. Samuelson stated that was correct.

Mr. Gordon stated this was the discussion had with the ARB. Mr. Gordon stated that he is in favor of the right-in/right-out on Theisen Drive with the curb cut on US-62 and the ARB agreed the second entrance was needed because the applicant needs more than one entrance.

Mr. Shockey asked what contingency the ARB provided.

Mr. Gordon stated the first curb cut on Theisen Drive would be right-in/right-out only if the curb cut on US-62 was granted and, if not, then Theisen Drive had to be full access. Mr. Gordon noted that there would be a number of hours during the 24 hour use of the site that entry and traffic would not be an issue. Mr. Gordon also commented that the other contingency had been to allow a forty (40) foot compromise on the curb cut rather than a 35 foot curb cut on US-62 for ease of access, particularly by trucks and larger vehicles.

Mr. Samuelson commented that ODOT would grant or deny approval for the size of the curb cut.

Mr. Gordon agreed, stating that if ODOT allowed for forty (40) feet that is what he wanted.

Mr. Shockey asked if the issue of the entrance on US-62 would be worked out reasonably soon.

Mr. Mayer replied there was no timeline and would be having the initial talks with ODOT on Tuesday, May 21, 2019 to introduce the city's projects and improvements to

the roadway. Mr. Mayer said this meeting would help staff gauge the comfort level for the speed limit reduction to 35 miles per hour for the roadway.

Mr. Shockey asked Mr. Underhill if this was in conjunction with the commencement of construction.

Mr. Underhill replied there were time frames that needed to be met to relocate the gas station. Mr. Underhill noted that he believed construction would begin before ODOT resolved the question, but noted he believed it would enhance the ability of the applicant to obtain the curb cut if the speed limit were reduced. Mr. Underhill added that a curb cut on US-62 would ease circulation on the site.

Mr. Shockey stated he thought a left turn entry was needed at the start of construction on the first entry that might then be reduced upon construction of the primary entry.

Mr. Dave Olmstead, Plain Township Trustee, asked if Theisen Drive would be widened as part of this.

Mr. Underhill replied there were no current plans for that as part of this project but could occur as part of some future project.

Mr. Mayer stated staff did not anticipate any widening because of this project but noted this applicant was dedicating right of way and additional easements on their side of Theisen Drive for future widening, if needed, but the thought is that would be driven by the land at the eastern end today.

Mr. Wallace asked if the entrance on US-62 would allow southbound traffic on US-62 to turn left or would those cars need to go to Theisen Drive.

Mr. Mayer stated there is a median on US-62 today which limits the site on US-62 to be right-in/right-out only. Mr. Mayer noted staff is trying to balance the pedestrian and automobile use of the site but understands and supports the need for a curb cut on US-62.

Mr. Wallace asked if the idea was that anyone accessing the gas station from SR-161 will turn on Theisen Drive and enter into the second entrance (because the first entrance will be only right-in/right-out).

Mr. Mayer stated that was correct if they were coming southbound on US-62 they would have to make a left.

Mr. Wallace stated that appeared to make the US-62 entrance almost redundant to the Theisen Drive entrance, but then noted that on reconsideration it might be a little easier for drivers to pass Theisen and turn right in to the gas station and convenience center and then when leaving they could turn right and proceed up to SR-161.

Mr. Gordon stated that traffic coming from the city would use the US-62 entrance.

Mr. Kirby asked where the 35 mile per hour limit line would be established if the speed limit on US-62 was reduced.

Mr. Mayer stated the belief is it would continue being 35 miles per hour on US-62 from where it is today all the way up to Walton Parkway.

Mr. Wallace asked if a traffic circle was being considered for the US-62 and Theisen Drive intersection.

Mr. Mayer replied that current preliminary plans are to signalize that intersection.

Mr. Wallace commented he was curious because it was a big intersection.

Mr. Kirby asked if the warrants required for ODOT to signalize the intersection had been met yet.

Mr. Mayer replied he was not sure but the plan was to signalize this intersection as part of improvements.

Mr. Samuelson commented the warrants were met.

Mr. Kirby asked if the village had plans and/or a budget to signalize.

Mr. Mayer stated the city had been awarded grants to partially fund this project but timing will be driven by City Council and their funding. Mr. Mayer added that he believed some funding had been approved for this in addition to the grants, but the exact timing still has to be worked out.

Mr. Spalding asked what the on-street parking restrictions were on Theisen Drive.

Mr. Mayer replied that although Theisen Drive is a public street, it is currently acting as a private driveway as it now only serves the Plain Township Fire Department. Mr. Mayer stated that currently no parking is allowed on the street although it is being used for parking at this time. Once this project begins, Mr. Mayer continued, the city will start enforcing no parking on Theisen Drive to ensure safe access to the site.

Mr. Kirby asked if the applicant minded if the variances requested were made conditional on the applicant's granting of two easements to the parcel between this applicant and the freeway.

Mr. Gordon asked for clarification.

Mr. Mayer noted there were cross access easements from the curb cuts along Theisen Drive and stated those would become a requirement for the variance to be granted.



Mr. Gordon stated that was okay.

Mr. Wallace asked if there was a concept of what the adjacent property's use would be.

Mr. Rubey replied that something like a car wash appeared to be illustrated on the plan, and that something similar to that was preferred. Mr. Rubey noted that both properties would need to function as one both aesthetically and in terms of vehicular circulation.

Mr. Wallace asked how far north one could go before there was no more useable property.

Mr. Rubey illustrated the line on the slide presentation.

Mr. Wallace noted that when he drove by the site there was a sizable distance between Theisen Drive and SR-161.

Mr. Rubey stated there were some grading restrictions that might make it difficult to use the property.

Mr. Underhill stated there were restrictions on certain uses for the property through zoning and private contracts.

Mr. Wallace asked if it were possible the parcel might not be used at all given the restrictions

Mr. Underhill replied the property had its concerns.

Mr. Schell asked what the timeframe was to close the existing service station and open this one.

Mr. Gordon replied September possibly.

Mr. Schell asked, assuming ODOT says yes and construction starts, what would be the timeframe for building and closing the other store downtown.

Mr. Gordon replied he would estimate it would be around September.

Mr. Schell asked in a perfect world when this would be completed with the current station closed.

Mr. Gordon replied he believed it would be within ninety (90) days of opening the new location, but was not sure.

Mr. Underhill stated it would be a six (6) to nine (9) month construction period

Mr. Schell asked if the pumps and convenience store would both be open 24 hours a day.

Mr. Gordon replied it was the convenience store and that it was an attended site and pumps would be open 24 hours a day.

Mr. Kirby stated that while the property was more than 500 feet from the nearest house, there are people who sleep at the Plain Township Fire Department location. Mr. Kirby asked if there was any concept of how noise proof the firehouse was.

Mr. Olmstead stated the firehouse was well insulated from sound.

Mr. Wallace stated he did not have a problem with the variance to decrease the parking spaces to 31, but asked if 31 spaces was sufficient for the location based on experience from similarly situated prior locations.

Mr. Gordon replied that there were also sixteen (16) parking spaces under the canopy, saying that those who were fueling were also parked and that some might enter the store, many would not. Mr. Gordon stated there were actually more parking spaces than the 31 and that a gas station is mainly five (5) minute in-and-out type shopping trip and the parking should be sufficient. Mr. Gordon added that a maximum of four (4) employees would be parked in the back, near the dumpster.

Mr. Kirby asked if the light spill on the plans could be fixed before anything is built.

Mr. Carter Bean, of Bean Architects, the applicant's architect, stated the spill would be resolved.

Ms. Maria Schaper, a resident of the Windsor Community, stated the neighborhood was very walkable and that is valued by the residents. Ms. Schaper noted the gas station and particularly the convenience store would be an amenity for the neighborhood, but noted it is a large intersection that is driver oriented and needs to plan for pedestrian access and circulation, rather than have it be an afterthought. Ms. Schaper mentioned she was concerned about the safety of pedestrians and bicyclists.

Mr. Shockey stated this site needed flashing lights for pedestrians and bicyclists to cross the road because there will be a temptation to sprint across the road to the site.

Ms. Schaper agreed.

Mr. Shockey asked staff what would be done there.

Mr. Kirby asked if there was a crosswalk.

Mr. Mayer stated staff could plan to accommodate pedestrian traffic but was not sure if Mr. Samuelson was familiar with what pedestrian crossings are initially planned for Theisen Drive and US-62.

Mr. Samuelson stated that as part of the signal installation pedestrian crosswalks would be required and stated there was one planned on the south leg of US-62.

Mr. Kirby asked if this was for the firehouse side.

Mr. Samuelson confirmed it was the firehouse side and stated there was not going to be one on the northside. Mr. Samuelson said the signal light would be pushbutton activated.

Mr. Gordon stated the site had a pedestrian area from the sidewalk to the building and stated the applicant was considering using pavers or concrete to better define the area based on Ms. Schaper's suggestion. Mr. Gordon added that the left hand side of the building offered a seating area as well as racks and air for bicycles.

Mr. Kirby stated that a crosswalk was not marked on the plan diagrams.

Mr. Olmstead stated the fire station was on the south side of the intersection and there were serious concerns about traffic standing on Theisen Drive and how that would impact fire equipment entering Theisen Drive. Mr. Olmstead stated there was ongoing work with the city for a signal light to be sure it works when fire trucks are leaving the fire station as well. Mr. Olmstead added that a majority of fire runs exit the fire station onto US-62 but there is occasionally a need to use the back drive and there are concerns whether the width of Theisen Drive is sufficient. Mr. Olmstead stated that there is a parking problem on Theisen Drive at this time but parties have been told to prepare for the loss of that parking.

Mr. Olmstead indicated the biggest concern is to the north of US-62 where the proposed curb cut entrance for the site is located, that if that entrance is not allowed by ODOT it will force all of the traffic to Theisen Drive which may hinder the movement of fire trucks into the firehouse. Mr. Olmstead noted the development is wanted, but there is concern that approval of the plan, as presented, will not lock in the entrance to the north and if the curb cut on US-62 is ultimately not approved by ODOT it will not take care of Theisen Drive which is not designed to handle that kind of traffic. Mr. Olmstead stated the city preferred to have the Planning Commission table this plan until it has further information from a traffic study as well as initial indications from ODOT regarding their initial intent for the curb cut approval.

Mr. Kirby asked if the plan documented in the staff report had the right-in/right-out on the first curb cut on Theisen Drive and whether it was contingent or not.

Mr. Mayer stated the staff recommendations for approval were that the first curb cut on Theisen Drive, the one closest to US-62, be designed as a right-in/right-out only.

Mr. Kirby asked if that included no reference to US-62, just Theisen Drive on its own.

Mr. Shockey stated that application showed a full access curb cut.

Mr. Mayer agreed and stated the applicant was requesting a full service entry/exit for both of the Theisen Drive curb cuts.

Mr. Spalding asked Mr. Olmstead if the township currently owned the land that is south of the fire station.

Mr. Olmstead replied the township owned that land between the fire station and 1st and Main Streets.

Mr. Spalding stated that he was thinking of a worst case scenario where it is built but just does not work for the needs of the fire station.

Mr. Olmstead replied that there is no real option if it does not work.

Mr. Wallace asked if a turn lane on Theisen Drive was being considered.

Mr. Kirby stated a left hand turn lane was already there.

Mr. Mayer confirmed a turn lane was in place.

Mr. Wallace stated there was plenty of right-of-way and space there for a left hand turn lane.

Mr. Kirby stated that creates a conflict for driver's on Theisen Drive trying to turn left into the gas station as they would have to cross the left hand turn lane on Theisen Drive for access.

Mr. Wallace stated he agreed the right-in/right-out made perfect sense, he just wanted to create a better picture of the intersection in his mind.

Mr. Olmstead stated there was a short left turn lane there.

Mr. Gordon stated that the applicant had offered the city additional land for a second left turn lane and is willing to give land if the road needs to be wider.

Mr. Kirby asked the Planning Commission if there was a desire to table this matter or to take action tonight.

Mr. Wallace asked what the purpose of tabling this would be and asked if there was anything the Planning Commission would want to hear more about other than a traffic study.

Mr. Kirby replied the traffic study and hearing what ODOT says.

Mr. Shockey stated it did not sound like ODOT would have their decision soon and it seemed this was all tied to longer term issues.

Mr. Kirby stated that with traffic signals there were warrants that must be met and asked staff if there was an equivalent set of warrants for speed limit reduction on the road or if permission had to be obtained every time.

Mr. Samuelson stated there is a criteria but permission must be obtained every time. Mr. Samuelson stated this was city corporation so there is some flexibility but ODOT has final say which the city can influence or impact because it is in a corporate area.

Mr. Mayer stated the road improvements were the justification for the speed limit reduction.

Mr. Wallace asked if historically the sense was that the type of presentation provided by staff to ODOT and the justifications stated for the speed reduction were the type that would cause ODOT to reduce the speed limit.

Mr. Mayer replied that he could not say as it would not be him but the engineering team that would be working with ODOT.

Mr. Kirby asked if the variances were to be approved as one (1) or four (4) separate variances in terms of the motions needed to be made.

Mr. Mayer replied that the Planning Commission could do it either way and the variances could be approved as one (1) application or as four (4) individual variances for each request.

Mr. Samuelson stated he believed it was cleaner if four individual motions were done.

Moved by Mr. Wallace to accept the staff report and related documents, including the slide show materials, into the record for CU-33-2019, FDP-34-2019, and VAR-35-2019, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Kirby to approve VAR-35-2019(A) to allow for a 10 foot setback where the text requires 30 feet based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, and on the condition that the cross access easements of FDP-34-2019 are part of this variance, seconded by Mr. Schell. Upon roll call: Mr. Kirby, yea; Mr. Schell, yea; Ms. Wiltrout, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Kirby to approve VAR-35-2019(B) to allow 31 parking spaces where the text requires 63 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, seconded by Ms. Wiltrout. Upon roll call: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Kirby noted for the record that VAR-35-2019(C) was lettered as VAR-35-2019 (D) on page 4 of the staff report while it was lettered as VAR-35-2019(C) in the header on the first page of the staff report.

Mr. Kirby asked the applicant if he would like to limit the variance to only the ice freezer and propane tanks.

Mr. Gordon stated he would like to add washer fluid.

Mr. Kirby asked for any comments on washer fluid.

Mr. Mayer stated he had no concern.

Moved by Mr. Kirby to approve VAR-35-2019(C) (lettered as VAR-35-2019 (D) on page 4 of the staff report) to allow propane tanks, an ice freezer, and washer fluid to be stored outside the permitted structure where the zoning text prohibits storage of products outside the permitted structure based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, seconded by Mr. Shockey.

Mr. Dick Roggencamp, the Director of Real Estate for the New Albany Company, stated as an architectural control they would not permit the storage of washer fluid outside.

Mr. Gordon agreed to remove the request for outside storage of the windshield washer fluid.

Mr. Kirby asked Mr. Shockey if he would agree to modify the motion to the original one.

Mr. Shockey replied yes.

Moved by Mr. Kirby to approve a modification of prior motion to approve VAR-35-2019(C) (lettered as VAR-35-2019 (D) on page 4 of the staff report) to allow propane tanks and an ice freezer to be stored outside the permitted structure where the zoning text prohibits storage of products outside the permitted structure based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, seconded by Mr. Shockey. Upon roll call: Mr. Kirby, yea; Mr. Shockey, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Kirby noted for the record that VAR-35-2019(D) was lettered as VAR-35-2019(E) on page 4 of the staff report while it was lettered as VAR-35-2019(D) in the header on the first page of the staff report.

Moved by Mr. Kirby to approve VAR-35-2019(D) (also lettered as VAR-35-2019(E) on page 4 of the staff report) to allow a gasoline service station to be located within 200 feet of any zoning district where residences are permitted based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, seconded by Ms. Wiltrout. Upon

roll call: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Wallace to approve CU-33-2019 based on the findings in the staff report with the conditions listed on the staff report, subject to staff approval, seconded by Ms. Wiltrout. Upon roll call: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Kirby to approve FDP-34-2019 based on the findings in the staff report subject to the eleven (11) conditions as seen in the slide presentation, subject to staff approval, seconded by Mr. Wallace.

Mr. Kirby asked for any discussion on the motion.

Mr. Gordon asked about the conditions and contingency on the curb cut size and the right-in/right-out requirement on Theisen Drive.

Mr. Kirby asked if a 35 foot wide curb cut was sufficient for the site and safe for pedestrian crossing.

Mr. Mayer replied staff believed it would increase pedestrian safety crossing by decreasing the amount of vehicular travel space pedestrians would need to cross when walking over the curb cuts. Mr. Mayer added that it is a policy to try to have curb cuts be as narrow as possible.

Mr. Kirby asked if the 35 foot measurement was the neck width that the curb cut narrowed down to.

Mr. Mayer replied that he believed, based on comments from the city traffic engineer, that that the 35 foot width is the measurement taken at the narrowest part of the curb cut.

Mr. Kirby asked if this meant the space provided 17.5 feet in each direction for vehicles to travel within.

Mr. Mayer stated that was correct and the curb cut would flare out to an additional width.

Mr. Kirby asked how wide driving lanes were US-62.

Mr. Mayer replied the lanes were believed to be twelve (12) feet wide.

Mr. Kirby stated the curb cut was then about five (5) feet wider than a lane on US-62 where traffic traveled at fifty (50) miles per hour.

Mr. Mayer agreed.

Mr. Wallace asked the applicant what the significance of a wider curb cut than 35 feet was.

Mr. Gordon stated ease of access in and out of the location, particularly considering the turning radius needed by large trucks and tractor trailers to be able to enter and exit the site.

Mr. Underhill commented that the Dairy Queen had a curb cut that was sixty (60) feet wide, so a request for a forty (40) foot wide curb cut seemed supportable.

Mr. Kirby asked for examples of 35 foot or narrower curb cuts in the village and inquired about the size of the right-in/right-out for CVS?

Mr. Mayer stated he was not sure.

Mr. Gordon stated the fire station had a 45 foot wide curb cut and noted the fire trucks were similar in size to the trucks used to make fuel deliveries.

Mr. Kirby noted that fire trucks are not articulated.

Mr. Olmstead asked about the curb cuts for Turkey Hill as that would be the most similar.

Mr. Samuelson commented that the 35 foot wide curb cut was a maximum per ODOT criteria for driveway design and ODOT would be the one to decide whether a curb cut is needed and what width a curb cut could be and that the applicant would be the one to make the case for anything more than 35 feet. Mr. Samuelson added that Turkey Hill was not a good comparable because this is a case of limited access right-of-way and Turkey Hill it is not an alley right-of-way.

Mr. Kirby asked if it should be left to ODOT.

Ms. Wiltout asked if requesting forty (40) feet would place the ODOT application in jeopardy or would ODOT simply reduce it to 35 feet.

Mr. Samuelson stated it was a 35 foot wide maximum width per ODOT standard designs for commercial driveways but it could be less, but the applicant would first need to make their application for the driveway and second for the width.

Mr. Samuelson stated the application had to make the case for that.

Mr. Underhill stated it was okay to ask ODOT.

Mr. Kirby asked Mr. Wallace if he would entertain a change to make condition 3 from the 35 foot requirement to state it was not to exceed forty (40) feet as approved by ODOT.



Mr. Wallace replied yes.

Mr. Kirby stated condition 3 was modified to state the curb cut along US-62 not to exceed what ODOT permits.

Mr. Kirby asked staff if this was clear.

Mr. Mayer stated it was clear.

Mr. Shockey stated he wanted to discuss condition 4 and believed it could be modified to allow full service until such a time that the right-in/right-out on Johnstown Road is approved by ODOT to help relieve traffic problems that may arise for drivers seeking to access the gas station.

Mr. Kirby stated he would not entertain a friendly amendment on that but that Mr. Shockey could talk him into it per Robert's Rules.

Mr. Shockey stated the first entrance on Theisen Drive should be full access due to internal traffic issues that may arise if only the second entrance is full access.

Ms. Wiltout asked why the second entrance on Theisen Drive was not sufficient.

Mr. Shockey replied the applicant was making the request and noted that the design layout on the slide also illustrated the first entrance was better positioned for driver access to the gas pumps under the canopy whereas the second entrance forced drivers to create a drive path that may conflict with the exit only on the first curb cut.

Mr. Gordon stated that if the location was limited to only one entrance it would have to accommodate not only gas station traffic but also traffic for the secondary business at the location.

Mr. Underhill noted that pedestrian traffic would also create a problem when added to the internal traffic on the site as vehicles travel through it.

Mr. Kirby stated that once ODOT came through much of that problem would cease, at least all of the outbound traffic from the village would be settled at that time.

Mr. Shockey stated then the right-in/right-out, staff, and other good reasons fall into place.

Mr. Kirby asked how long the left turn on Theisen Drive might be compromised and generate stacking issues.

Mr. Wallace commented it was a safety issue for the right-in/right-out but that he did not think the safety issue would change whether there was an entrance on US-62 and

believed the applicant would have to be stuck with a single entrance at the second Theisen Drive entrance.

Mr. Olmstead stated, on behalf of the township, he would echo Mr. Wallace's comments. Mr. Olmstead continued that the movement of traffic so close to the corner where drivers would be turning left would be a traffic issue. Mr. Olmstead asked the Planning Commission not to approve this part of the application because there was no guarantee ODOT would grant the second curb cut on US-62 and using the first entry on Theisen Drive was a safety issue that may create stacking problems which pose issues for township safety vehicles.

Mr. Underhill stated he would suggest that if approximately two (2) years from tonight ODOT has not yet approved the right-in/right-out curb cut on US-62 the applicant would need to return to the Planning Commission with a traffic analysis to prove that the continued existence of that second full access entry is justified from a traffic safety standpoint. Mr. Underhill noted the Planning Commission could, if does not agree, then make the entry right-in/right-out.

Ms. Wiltout stated this location would be operational before that date and there would be a time when the safety concerns would exist and they would also have an impact during construction of the site.

Mr. Underhill stated the arguments from the township would be more critical if the fire station used Theisen Drive for more of its emergency runs and his suggestion provided a middle ground to help determine the conditions.

Mr. Kirby asked how long and, if at all, to compromise the left hand turn and the stacking that may be created when drivers must turn left across a left hand turn lane.

Mr. Underhill stated it could be the earlier of two (2) years or after the gas station is operational for a number of months to limit the potential length of time the situation might occur.

Mr. Kirby asked if the New Albany Company owned the land at the end of Theisen Drive.

Mr. Underhill replied yes.

Mr. Kirby asked if there were any near-term plans for any development.

Mr. Underhill stated that was not expected.

Mr. Wallace asked Mr. Underhill if what he stated meant that because Theisen Drive today is a stub and those using it are only parking there for convenience and fire trucks do not mostly use it, then the full access for the first Theisen Drive curb cut should be granted while the traffic is not heavy and the applicant will return down the road. Mr.

Wallace asked if perhaps a condition requiring the applicant to return if a development caused Theisen Drive to be extended occurred should be added.

Mr. Underhill agreed.

Ms. Wilttrout asked if three (3) months following operation would be too tight a time period.

Mr. Underhill stated he was open to what the Planning Commission felt was reasonable.

Mr. Wallace stated it could be done as a friendly amendment and change it or could require a motion to amend.

Mr. Kirby asked for an explanation of a friendly amendment.

Mr. Gordon stated it would be contingent until the development of the road.

Ms. Wilttrout stated it was important to see what it would look like with the traffic and operation of the establishment.

Mr. Mayer noted Theisen Drive was serving just the fire department and the gas station as it exists today. Mr. Mayer added that if Theisen Drive were extended, meaning additional development to the east occurred, that may create more potential for traffic conflicts. Mr. Mayer suggested to include a default in the condition to installing the right-in/right-out when the road is extended to the east.

Mr. Kirby asked how it would be evaluated, if it should be date certain.

Mr. Mayer replied it could be date certain, but added that the right-in/right-out requirement should be included as soon as there is additional traffic from a road extension to the east.

Mr. Wallace stated he wanted it to be date certain because he thought the anecdotal reactions from the neighborhood, like those heard this evening, should be considered. Mr. Wallace added the condition regarding the road extension as well as a fixed time for the applicant to return to the Planning Commission were needed. Mr. Wallace stated he believed this was safety issue and this would permit the township to provide feedback so that changes could be made at that time.

Mr. Kirby asked how many months following operation would the condition require.

Mr. Underhill replied that three (3) or four (4) months of operation would be required to provide an evaluation.

Mr. Wallace commented that data and anecdotal experience should be available.

Mr. Kirby asked if five (5) or six (6) months from the start of operation would provide sufficient time to complete studies and more than one season to operate.

Mr. Kirby stated he would amend his prior motion to state that condition 4 change to allow a temporary full service curb cut with a requirement to have the applicant return to the Planning Commission that is triggered by the extension of Theisen Drive taking place or the passage of six (6) months' time following operation but, if ODOT approves a curb cut on US-62, the full service curb cut to automatically convert back to right-in/right-out once the US-62 curb cut is operational.

Mr. Wallace approved the amended motion.

Moved by Mr. Kirby to approve FDP-34-2019 based on the findings in the staff report subject to the eleven (11) conditions as seen in the slide presentation and the modification to condition 3 to state the curb cut along US-62 not to exceed what ODOT permits and the modification to condition 4 permitting for the full service of the first Theisen Drive curb cut until or unless it is required to become right-in/right-out only, subject to staff approval, seconded by Mr. Wallace. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Kirby called for a five (5) minute break period.

#### **CU-39-2019 Conditional Use**

**Conditional use application to allow retail and product sales, as well as general office uses located at 5740 Zarley Street (PID: 222-000269 and 222-000270).**

**Applicant: Kessler Sign Company**

Ms. Russell presented the staff report.

Mr. Kirby asked if the vacancy requirement of the condition in the staff report should be retained.

Mr. Mayer agreed the vacancy requirement of the condition could be removed.

Mr. Wallace asked if that was not what the Planning Commission was doing this evening and asked if this was not essentially a sign change.

Ms. Russell replied that a sign change triggered this application.

Mr. Schell asked to keep the language the same.

Moved by Mr. Wallace to accept the staff report and related documents into the record for CU-39-2019, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Wallace to approve CU-39-2019 based on the findings in the staff report with the conditions in the staff report, subject to staff approval, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

**FDM-42-2019 Final Development Plan Modification**

**Final Development Plan Modification to the Oxford subdivision to adjust the planned site orientation of lots #20 and #1 at the entry to the subdivision (PID: 222-004715 and 222-004696).**

**Applicant: Maletz Architects c/o Andrew Maletz**

Ms. Russell presented the staff report.

Mr. Kirby asked if the western edge of the detached car garage on Lot 20 lined up with the eastern face of the house on Lot 1.

Ms. Russell stated that was correct.

Mr. Andrew Maletz, the architect and builder, stated the intent is to be respectful of the character of the entry but also to mediate the impact the curvature of the street has on the site.

Mr. Kirby stated he wondered about some inaccuracies and asked if these were the documents of record.

Mr. Mayer stated those were the documents of record.

Mr. Kirby stated the first of the unnumbered pages of the untitled document shows a House 20 that does not match the second, fourth, or fifth of the unnumbered pages in the untitled document in terms of the study and renderings done on it compared to that completed on others in the plan.

Mr. Maletz replied that they attempted to show an overlay of the plot in context to the surrounding homes.

Mr. Kirby asked if this was authoritative for what the plan should be and noted the sketch on the front was not authoritative.

Mr. Maletz replied that was correct and noted that Lot 1 has only been designed conceptually and has not gone through an architectural review process and has not yet been submitted for permit. Mr. Maletz stated that they are in agreement with the condition to maintain a common setback because they have an opportunity to affect the orientation on Lot 20.

Mr. Kirby asked if the front one is to be used by the Planning Commission to approve the application based on how the homes align to each other and to US-62.

Mr. Maletz stated that was up to the Planning Commission and noted the applicant had provided a site plan that had undergone architectural review and been submitted to the city for permit approval. Mr. Maletz noted that unfortunately the plat is not a scaled plat, so the creation of an overlay for visual reference was done as best as possible to provide a relevant context to what is happening up and down Oxford Loop North.

Mr. Kirby stated it was a different house with a different alignment but otherwise it was correct.

Mr. Maletz replied he supposed that would be an accurate statement. Mr. Maletz noted the houses were similar in layout but there are some differences.

Mr. Kirby stated that as this was the diagram that would best make the case for the applicant and was, therefore, one of the least tolerable of errors. Mr. Kirby stated the conditions in the staff report were not reflected and this also made action difficult.

Mr. Mayer stated that Lot 20 is the one that is more well designed so if this was the authoritative page that would mean there was leeway on Lot 1. Mr. Mayer stated a condition could be added that Lot 1, even though the first page does not match what is on the authoritative page, would be realigned to match the alignment shown on the authoritative page. Mr. Mayer added that the overall goal was to create a gateway into the community and that what staff had originally shown for illustration created an odd entry. Mr. Mayer stated the movement of the top right of Lot 20 closer to Lot 21 makes sense and Lot 1 has flexibility. Mr. Mayer added there may be some additional tweaking to occur on Lot 1.

Mr. Mayer added the materials here did not provide a final image of what is built but is provided to help allow the homes on lots 1 and 20 to face each other but not share a build-to line along US-62.

Mr. Schell asked if anyone lived on Lot 21 at this time.

Mr. Maletz stated that home was currently under construction and the homeowner had been notified of the change to Lot 20. Mr. Maletz noted that what he had tried to illustrate was how the property would be if the letter of the text were adhered to and how the orientation of the driveway and house, in that case, did not align well with the rest of the houses on Oxford Loop North if they were required to align to US-62.

Mr. Mayer stated design flexibility still existed.

Mr. Kirby asked if the houses faced each other and not US-62.

Mr. Mayer stated that if the houses, per code interpretation, would face each other and share a building line along US-62 so they were parallel but this would result in an unfortunate relationship with the lots. Mr. Mayer added this change would still succeed in

creating a gateway into the community while being mindful to the relationship along US-62.

Mr. Kirby asked where the front door on Lot 1' house faced.

Mr. Maletz stated it would be oriented to face Oxford Loop North, on the short side of the house, and added the applicant would work with staff to orient to their satisfaction.

Mr. Wallace asked for an explanation of the modification being sought by the applicant.

Mr. Rubey stated that the when Oxford was zoned there had been lengthy discussion about the entrance homes into the subdivision. Mr. Rubey stated there was a particular concern about how the homes would relate to each other and to US-62. Mr. Rubey noted the New Albany Company had gone through its process and determined the homes would have to be primarily brick and similar in scale and size. As part of that, Mr. Rubey added, the homes were expected to face each other while being parallel to US-62. Mr. Rubey stated that as construction began on these homes, they have learned that the lot shapes make those earlier requirements regarding facing each other and being parallel to US-62 inappropriate. Mr. Rubey stated the applicant is asking for relief from those conditions.

Mr. Wallace asked what the language to be changed was.

Mr. Mayer stated the application asked for a modification to the final development plan to remove the requirement that the homes must face each other and to add a new requirement that the homes address Oxford Loop North instead of each other when entering into the subdivision.

Ms. Wiltout asked if there was any way to discuss this after the plans had been drawn.

Mr. Kirby noted that condition 2 states the homes share a build-to setback line from US-62 and asked if this is not what was originally required.

Mr. Mayer explained that it would not be a build-to-line, it would be that the homes share a common setback and have the same angle and relationship to Oxford Loop North and the closest part of the homes would be equidistant from US-62.

Mr. Kirby asked if that was a build-to-line rather than a setback.

Mr. Rubey replied that it would not be a build-to-line on US-62.

Mr. Kirby stated if the house was the same distance from the right-of-way on US-62 it is effectively a build-to-line if the homes are to lineup.

Mr. Mayer replied that per Code a build-to-line is technically the front setback line which is typically the common line homes share and are built to or parallel to and indicated this was why staff made the recommendation.

Mr. Maletz stated that the requirement that the homes run parallel to Johnstown Road was the main reason for the application. Mr. Maletz stated the applicant sought relief from this requirement because the homes cannot be both oriented properly to Oxford Loop North and parallel to Johnstown Road.

Mr. Wallace stated it would be better to return when a better plan had been developed.

Ms. Wiltout stated it would be best if the specific language being sought was available.

Mr. Banchefsky suggested removing the limiting language that requires the homes on lots 1 and 20 to be parallel to US-62 and leave the design up to staff and if the applicant and staff cannot sort it out then it comes back to the Planning Commission.

Mr. Kirby stated that Lot 1 was the real key and that he would be happy to grant leave to have a better plan developed before taking a vote as he felt he could not vote on what was presented.

Mr. Maletz stated the challenge was that the applicant was looking to begin construction on Lot 20 and that possession of Lot 1 had not yet been obtained. Mr. Maletz stated he would be happy to return with a better illustration of the relationship of Lot 1 to Lot 20, but asked that if there were no objections to the orientation of lot 20 the applicant be granted the ability to commence construction on Lot 20.

Mr. Wallace stated the application came with both Lot 20 and Lot 1 and asked if there was some inter-relationship with the two (2) lots that would mean an approval on Lot 20 would lead to a problem when Lot 1 returns.

Mr. Rubey replied that what occurs on Lot 20 would affect what can occur on Lot 1.

Mr. Kirby asked if the applicant could tolerate the potential loss of Lot 1 then a vote could be taken on Lot 20.

Mr. Rubey stated that the need to match the homes to the text on the relationship to US-62 is at issue.

Mr. Kirby stated the second page looked reasonable as a site plan.

Mr. Shockey stated he believed the applicant was just looking for some language relief.

Mr. Wallace stated he thought the language change the applicant was requesting was relief from the requirement that the home on Lot 20 be parallel to Johnstown Road to allow the house to orient along Oxford Loop North.



Ms. Wilttrout agreed.

Mr. Maletz agreed.

Mr. Wallace asked if the relief should be given to both lots or just Lot 20 and have the applicant return to the Planning Commission for Lot 1.

Mr. Kirby stated he believed Lot 20 would be fine, but Lot 1 was not a given, and noted the applicant should return with a more complete packet for Lot 1, and risk an unbuildable lot.

Mr. Rubey stated they were in agreement on returning to the Planning Commission .

Mr. Wallace commented that once it was clarified the application was to grant relief to Lot 20 from the requirement that it be oriented parallel to Johnstown Road and allow it to be oriented along Oxford Loop North, subject to staff approval, then condition 1 remains because the applicant is fairly far along on what will be built on Lot 20. Mr. Wallace asked how condition 2 fit in if relief from the parallel requirement was granted, was it still needed at all.

Ms. Russell stated the intent for condition 2 was to have the home on Lot 1 better relate to the home on Lot 20.

Mr. Wallace stated it did not seem condition 2 was needed because condition 2 is driving where the house on Lot 1 is going to be located in comparison to the house on Lot 20.

Mr. Russell stated she did not believe it was needed because staff had spoken to the applicant and the applicant understands how to achieve that feel.

Mr. Wallace stated condition 2 could be eliminated.

Mr. Schell asked for the image of the two lots to be displayed and stated that the alignment of both of the lots onto US-62 did not look good.

Mr. Kirby stated the view was relevant because what might not look good along US-62 might be different than what might not look good along Oxford Loop North.

Mr. Schell asked if Lot 20 were being granted why not Lot 1.

Mr. Kirby stated he was fully prepared to do so, but it's a case of not having enough information to know if Lot 1 could be properly addressed and reviewed by staff.

Mr. Wallace stated he believed the issue is that in order to approve Lot 1 a more detailed drawing for Lot 1 must be seen and it is not available here to the extent that a more detailed drawing of Lot 20 is. Mr. Wallace added that the problem is that once Lot 20 is

begun that may lock the applicant in, to some extent, on what can be done on Lot 1 because both houses have to line up properly, but that is the risk the applicant is willing to take.

Mr. Schell asked the applicant how quickly a new drawing could be provided to the Planning Commission.

Mr. Maletz replied the applicant does not yet own Lot 1 and the floor plan has not yet been laid out. Mr. Maletz stated the applicant understands the limitation this creates by orienting Lot 20 properly to Oxford Loop North and that it will put a burden on the applicant to prove to staff and perhaps the Planning Commission that it can then properly design Lot 1 when the time comes.

Mr. Wallace commented that with the same architect on both homes it is expected they will look alike and make sense.

Mr. Kirby stated he suspected the fix would be that a long face of the home on Lot 1, probably with the front door on it, is on Oxford Loop North and it roughly bisects the angle of Lot 20 and Lot 21 because it is set back in. Mr. Kirby added that he wanted to see, when the applicant returned, a diagram of how Lot 1 and Lot 20 looked like and how they related to each other.

Mr. Mayer stated staff had met with the city architect, Mr. Maletz, and Mr. Rubey and the city architect supports the basic concept as seen in this design. Mr. Mayer stated the Planning Commission could make the design of Lot 1 subject to the city architect's review and approval.

Mr. Shockey stated he thought all that was being done was removing language from the plan.

Mr. Mayer replied, yes, off the final development plan.

Mr. Shockey commented that the materials were just exhibits to show why the language was being taken out, they were not substantive.

Mr. Mayer replied that was correct.

Mr. Wallace replied Mr. Shockey was correct to an extent, but stated that condition 1 puts some limitations on what the designs can be, so this is part of the reason for the confusion as to what is being approved.

Mr. Kirby asked how Lot 1 was to be enforced; should the Planning Commission review Lot 1 or staff.

Mr. Schell asked if the Planning Commission was removing the parallel requirement only from Lot 20 and keeping condition 1.

Mr. Kirby replied yes.

Mr. Kirby asked if the applicant could tolerate the loss of Lot 1.

Moved by Mr. Wallace to accept the staff report and related documents into the record for FDM-42-2019, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Ms. Russell asked if the second condition was being removed but the first condition was still in place.

Mr. Kirby replied yes, with the first condition in the staff report.

Moved by Mr. Kirby to approve a modification in the language of FDM-42-2019 for Lot 20 to replace the language the applicants wish relief from with sheet 2 of the unnumbered, untitled document as acceptable in its stead, subject to staff approval, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea; Ms. Wilttrout, yea; Mr. Schell, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Kirby stated he wanted to add to the record that he did not find the variance he voted no on for Hanby's Loop met the Duncan criteria.

Mr. Wallace stated he agreed with Mr. Kirby's statement.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 11:09 p.m.

Submitted by Josie Taylor.

## APPENDIX



### Planning Commission Staff Report May 20, 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 15<sup>th</sup> and March 28<sup>th</sup>

---

*Staff report prepared by Chris Christian, Planner.*

#### **I. REQUEST AND BACKGROUND**

New information added to the staff report is underlined.

The Planning Commission heard this application on April 15, 2019 and the motion to approve the application failed, so the request was denied. On May 6, 2019 the Planning Commission voted to reconsider the variance request at the next scheduled meeting. The applicant has provided a letter of support from the neighbor at 7096 Armscote End as conditioned at the last meeting. During the April 15, 2019 Planning Commission meeting, the board commented on the slightly irregular shape of the lot as it narrows as it goes from the front to the back. This is an additional factor for the Planning Commission to consider in their evaluation.

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 appears that the lot narrows as it goes from the front to the back. The front of the lot is approximately 100 feet wide and the rear portion of the lot, where the applicant proposes to install the fireplace, is approximately 88 feet wide.
5. 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.
6. 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.
7. 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.
8. 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  
May 20, 2019 Meeting**

---

**JUG STREET NORTH ZONING DISTRICT  
ZONING AMENDMENT**

---

**LOCATION:** Generally located to the north of Jug Street, east of Beech Road, south of Miller Avenue and west of Clover Valley Road  
**REQUEST:** Zoning Amendment  
**ZONING:** AG Agricultural to L-GE Limited General Employment  
**STRATEGIC PLAN:** Office Campus/Transitional Agriculture  
**APPLICATION:** ZC-38-2019  
**APPLICANT:** MBJ Holdings LLC, c/o Aaron Underhill, Esq.

Review based on: Application materials received April 19<sup>th</sup> and April 23, 2019.

*Staff report completed by Chris Christian, Planner*

---

**I. REQUEST AND BACKGROUND**

The applicant requests review for the rezoning of 484.4+/- acres. The request proposes to create a new limitation text for the area known as the “Jug Street North Zoning District” and will be zoned Limited General Employment (L-GE). The proposed limitation text meets the majority of the Strategic Plan’s office campus/transitional agriculture and the Western Licking County Accord Office District land use categories by providing compatible general employment uses.

The text contains the same list of permitted, conditional, and prohibited uses as other zoning districts within the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located. Other development standards are almost identical to the surrounding subareas.

**II. SITE DESCRIPTION & USE**

The overall site consists of nineteen parcels and is located within Licking County. The site is generally located to the north of Jug Street, east of Beech Road, south of Miller Avenue and west of Clover Valley Road. These parcels are currently being annexed into the city. The annexation petition was submitted on January 31, 2019 and was scheduled for its first reading at City Council on April 16, 2019. The annexation was passed by city council on May 7, 2019.

C.O. 1111.02 allows a change in zoning to be initiated by motion of Council, or by motion of the Planning Commission. The neighboring uses and zoning districts include L-GE and unincorporated agricultural and residential. The site is comprised of farm fields and residential homes.



### **III. PLAN REVIEW**

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

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

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

#### **A. Western Licking County Accord**

The zoning district is located within the Western Licking County Accord's Office and Office Campus/Transitional Agriculture future land use districts. The Western Licking County Accord states that if New Albany annexes land in this area and is able to provide water and sewer services, it would best serve the city of New Albany and Johnstown-Monroe School District as office development in the annexed area. The Accord's recommended development standards for the Office District include, but are not limited to:

- 1. Building should be oriented to the front of the primary public roadways. (pg. 68)
- 2. Office buildings should be set back from the primary street right-of-way a minimum of 50 feet to maintain a natural greenway as a visual amenity. (pg. 68)
- 3. Street trees should be provided on both sides of the street at a minimum of 40 feet on center. (pg. 68)
- 4. Where new development is adjacent to existing residences a buffer zone shall be created with a minimum width of 25 feet. Such screening within the buffer zone shall consist of natural vegetation planted no closer than 3 feet to any property line. Natural vegetation shall have an opaqueness of 75% during full foliage and shall consist of a variety of deciduous and evergreen trees which attain 10 feet in height within 5 years of planting. (pg. 65)
- 5. Reasonable and good faith efforts shall be made to preserve existing trees and tree rows occurring in the planning area. (pg. 64)
- 6. To avoid spill-over lighting from commercial development to residential development. (pg. 66)
- 7. To avoid light pollution of the night sky. (pg. 66)
- 8. Outdoor light pole fixtures shall not exceed thirty (30) feet. (pg. 66)

#### **B. New Albany Strategic Plan**

The zoning district is located within the 2014 New Albany Strategic Plan's Office and Office Campus/Transitional Agriculture future land use districts. The 2014 New Albany Strategic Plan lists the following development standards for the Office District:

The 2014 New Albany Strategic Plan lists the following development standards for the Office District and Office Campus/Transitional Agriculture:

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

### *C. Use, Site and Layout*

1. The proposed zoning text is a limitation text. A limitation text can only establish more restrictive requirements than the zoning code.
2. The site is located in the 2014 New Albany Strategic Plan's Office and Office Campus/Transitional Agriculture district. This site is also located in the Western Licking County Accord's Office and Office Campus/Transitional Agriculture district.

3. Due to the proximity of this site to the State Route 161/Beech Road interchange and its location adjacent to commercially zoned land in the existing New Albany Business Park to the south, the site appears to be most appropriate for commercial development.
4. The limitation text will allow for general office activities, warehouse & distribution, data centers, and research & production uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
5. Conditional uses include car fleet and truck fleet parking, and manufacturing and production.
6. Prohibited uses include industrial product sales and services, mini-warehouses, vehicle services, radio/television broadcast facilities, off-premise signs and sexually oriented business.
7. Distribution and manufacturing uses are prohibited within the “height restriction area” which is the northeast corner of the zoning district. Warehouse and similar uses shall be permitted within this area if they are ancillary or accessory to another permitted use with the exception of warehousing.
8. This text contains the same list of permitted, conditional, and prohibited uses as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axiom, and Veepak are located, and the portion of the business park south of State Route 161 in Licking County.
9. The limitation text establishes more restrictive setback requirements than the development standards from surrounding L-GE limitation texts in the immediate vicinity. Zoning text section D.2 proposes the following setbacks:
  - Beech Road: minimum 185 foot building and pavement setback from centerline.
    - Meets the New Albany Strategic Plan recommendation of a 185 foot setback from centerline.
    - The Western Licking County Accord does not provide setback recommendations for arterial roads like Beech Road. The text only provides setback recommendations for rural roads. The proposed 185 foot setback appears to be appropriate for Beech Road.
  - Jug Street: minimum building and pavement setback of 200 feet from the centerline of the road.,
  - New Public Streets: minimum building and pavement setback of 25 feet from the right-of-way.
    - The standards from the new commercial public street matches surrounding zoning texts.
  - Perimeter Boundaries
    - 100 foot building and pavement setback from the northern boundary.
    - 50 foot building and pavement setback from the eastern perimeter boundary, except that the minimum building setback shall be 100 feet from any portion of this boundary which is adjacent to property which residential uses are permitted.

#### **D. Access, Loading, Parking**

1. The text states there shall be no vehicular access points along Beech Road to serve the Zoning District that are located within 450 feet to the south or within 650 to the north

of the existing centerline of the right-of-way of Fitzwilliam Lane. This area is referred to as the “access restriction area”.

2. Detailed traffic access will be determined with City Staff as the site is developed. The text requires that in conjunction with the filing of an application with the City for a plat or private site development, a traffic study shall be filed by the applicant. Section 5 of the zoning text creates a provision to allow the city to require an update to the traffic study as the zoning district develops.
3. Zoning text section C.4 proposes to dedicate the following right-of-way below. The City Engineer reviewed the public right-of-way commitments and has indicated that they are appropriate.
  - a. Beech Road: The total right-of-way for Beech Road shall be 100 feet. Right-of-way shall be dedicated to the City within this Zoning District to a width of 50 feet as measured from the centerline of Beech Road.
  - b. Jug Street: The total right-of-way for Jug Street shall be 60 feet. Right-of-way shall be dedicated to the City within this Zoning District to a width of 30 feet as measured from the centerline of Jug Street.
  - c. New Public Streets: Right-of-way will be the appropriate width for the anticipated character of the street as guided by the City of New Albany Strategic Plan.
4. Parking will be provided per code requirements (Chapter 1167) and will be evaluated at the time of development for each individual site.
5. Zoning text section F.5 requires an internal pedestrian circulation system to be created for buildings with the primary uses of office unless they are a part of a campus which for reasons of safety and security reasons requires access by the public to be restricted.
  - a. Staff recommends that the creation of an internal pedestrian circulation system be required for research & productions and warehouse & distribution uses in addition to office uses.

#### **E. Architectural Standards**

1. The proposed rezoning implements many of the same or improved standards and limitations set forth in the New Albany Architectural Design Guidelines and Requirements and neighboring commercial zoning districts.
2. The same architectural requirements as the existing Personal Care and Beauty Campus, Beech Road South, and Innovation District are proposed.
3. The zoning text section E.1 permits 65 foot tall buildings, which matches other surrounding development, but may be increased to a maximum of 85 feet. In order to receive approval for an 85 foot maximum building height, the proposed building must have a secondary review conducted by the Planning Commission. Additionally, the building will have to meet additional setback requirements, have a real operational need for the height, full mechanical screening, and four-sided architecture to be considered for the height increase.
  - a. The zoning text does limit the building height to 45 feet in the “height restriction area” which is the northeast corner of the site.
  - b. Building exceeding 65 feet in height and up to 75 feet shall have a minimum setback of 300 feet from any parcel as to which the current zoning permits residential use;

- c. All buildings exceeding 65 feet shall have a minimum setback of 300 feet from the centerline of Jug Street and a minimum setback of 500 from the centerline of Beech Road;
- d. A building with a height of between 76 and 85 feet shall have a minimum setback of 350 feet from any parcel where the current zoning allows for residential uses.
- 4. The General Employment district does not typically have a height limitation. By creating a height requirement of 85 feet, the text is still being more restrictive than the standard district requirements.
- 5. The City's Design Guidelines and Requirements do not provide architectural standards for warehouse and distribution type facilities. Due to the inherent size and nature of these facilities careful attention must be paid to their design to ensure they are appropriately integrated into the rest of the business park. The limitation text includes the same specific design requirements for uses not governed by the DGRs as those in the other subareas of the Licking County business park, which will ensure the quality and consistent design of these buildings throughout this portion of the business park.
- 6. Section 4 of the zoning text requires complete screening of all roof-mounted equipment on all four sides of the building using materials that are consistent and harmonious with the building's façade and character. The text indicates that the screening is provided to screen equipment from off-site view but also to buffer sound generated by the equipment. The text allows parapets and other buildings within the district to provide this screening.
- 7. Section I of the zoning text allows above ground utilities but only in the following specific circumstances:
  - a. When ground mounted equipment/structure is located at least 200 feet from the centerline of any public right-of-way or the piping, cables, and/or conduits between a building and ground mounted equipment or structures are not visible from the public right-of-way.
  - b. Additionally, any connection installed for its entire length shall be at a height at its minimum function design height, which shall not exceed 125% of the ground mounted equipment or structure to which the connection is made.

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

- 1. Maximum lot coverage for this subarea is 75%, which is the same requirement as the surrounding L-GE zoning districts.
- 2. The proposal includes the same tree preservation commitments as other recently approved zoning texts in the area and retains the existing focus on tree preservation.
- 3. The proposed text contains the same commitment to preserve trees in this perimeter buffer area as surrounding zoning texts. The limitation text requires that within all minimum required pavement setbacks not along a public right-of-way, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees that are in good health and that are at least four (4) caliper inches in diameter at a height of three (3) feet above the ground shall be preserved where reasonably practical.

Trees within these areas may be removed if they present a danger to persons or property. This commitment is meeting the tree preservation development goal of the Western Licking County Accord Plan. (pg. 64)

4. The limitation text commits that prior to commencing development in a portion of the zoning district that contains a Preservation Area; the developer shall provide detailed legal descriptions of the Preservation Area to the Director of Community Development for record keeping and enforcement purposes.
5. The proposed text states requirements for landscaping phasing will occur when construction is anticipated within 800 feet of a given area. The area will be determined by extend two straight lines from the perimeter boundary line to the furthest distance required on each side of where planned improvements are to be constructed.
  - a. It is unclear in the proposed text if ground mounted equipment and/or utility installation within 800 feet of a perimeter boundary would trigger this phased landscape requirement. Staff recommends a condition of approval that any construction or improvement installed within 800 feet of a perimeter boundary qualify for the phased landscape and screening provision in the text.
6. The City of New Albany Business Campus South – Beech Road South Landscape Standards Master Plan which was previously created for the Beech Road corridor and approved by the Planning Commission on June 5, 2017 shall apply to the Beech Road frontage in this Zoning District.
7. Staff recommends a condition of approval that a comprehensive landscape plan that incorporates mounding, tree preservation, plantings, screening and stormwater ponds will be developed, meeting or exceeding the requirements of the Beech Road South Landscape Plan. The plan will be reviewed and approved by the city landscape architect. Landscaping within the required minimum building and pavement setbacks shall be consistent along Beech Road and Jug Street. The text requires the following landscaping along those streets:
  - a. Along the perimeter boundaries of the zoning district which are adjacent to Beech road and Jug Street, a minimum eight (8) foot high mound shall be installed along the property line and shall include a landscape buffer on the mound consisting of a mixture of deciduous trees, evergreens and bushes to provide an opacity of 75% on the date that is 5 years after planting to a total height of 12 feet above ground level.
8. Screening for adjacent residential properties is as follows:
  - a. Northeastern Area: Along the portion of the northern property line that is located between the eastern boundary of the Preservation Zone on the west and the eastern boundary of the Zoning District on the east, mounding shall be required at a minimum height of ten (10) feet with a landscape buffer on the mound which shall consist of a mixture of deciduous trees, evergreens and bushes to provide an opacity of 75% on the date that is 5 years after planting to a total height of fourteen (14) feet above the top of the mound.
  - b. Other Boundaries: For all other perimeter boundaries (i.e., boundaries other than as described in the immediately preceding subsection) which abut properties containing either existing residential uses or, as determined at the time that an application is filed for a building permit (“Building Permit”)

in this Zoning District, have a zoning classification which permits the development and operation of residential uses thereon and are not owned by the developer (any real property meeting either of the foregoing criteria to be referred to herein as “Residential Property”), a minimum eight (8) foot high mound shall be installed along the property line which shall include a landscape buffer on the mound which shall consist of a mixture of deciduous trees, evergreens and bushes to provide an opacity of 75% on the date that is 5 years after planting to a total height of twelve (12) feet above the top of the mound.

9. Street trees are required to be located an average of 30 feet on center throughout the development.

#### **E. Lighting & Signage**

1. No signage is proposed at this time. Per the text all signage shall meet the standards set forth in Codified Ordinance 1169 (City Sign Code).
2. *All lighting shall be cut-off type fixtures and down cast to minimize light spilling beyond the boundaries of the site. Staff recommends a condition of approval that there shall be no light spillage on residential properties. This is a priority development goal of the Western Licking County Accord Plan (pg. 66)*
3. *The maximum height of light poles is 30 feet. However, light poles located within 300 feet of properties where residential uses exist or are permitted shall be no higher than 18 feet in height. This requirement is meeting one of the development goals of the Western Licking County Accord Plan pertaining to lighting. (pg. 66)*
4. *The zoning text requires lighting details to be included in the landscape plan which is subject to review and approval by the City Landscape Architect.*

#### **F. Other Considerations**

1. The property owner has submitted a school impact statement which states the proposed L-GE zoning will result in fewer children in the Johnstown Monroe Local School District and add significant value to the land resulting in a substantial financial benefit to the school district.

### **IV. RECOMMENDATION**

#### ***Basis for Approval:***

The limitation text provides for stricter limitations in use and design than the straight General Employment zoning districts and retains or improves upon many of the requirements found in adjacent existing zoning texts. Due to the proximity of this site to the State Route 161/Beech Road interchange and its location adjacent to commercially zoned land in the existing New Albany Business Park to the south, the site appears to be most appropriate for commercial development.

It appears that the proposed zoning text is meeting or exceeds a majority of the development standards found in both the Western Licking County Accord Plan and the 2014 New Albany Strategic Plan. The requirements of the zoning text take into account the existing residential

nature of the surrounding area and include different height and landscape restrictions to remain sensitive to those existing uses.

1. The large scale of the rezoning will result in a more comprehensive planned redevelopment of the area and will ensure compatibility between uses (1111.06(a)).
2. The L-GE rezoning application is an appropriate application for the request (1111.06(e)).
3. The overall effect of the development advances and benefits the general welfare of the community (1111.06(f)).
4. The proposed rezoning will allow for the development of businesses that will generate revenue for the school district while eliminating residential units having a positive impact on the school district (1111.06(h)).

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

## **V. ACTION**

### **Suggested Motions for ZC-38-2019:**

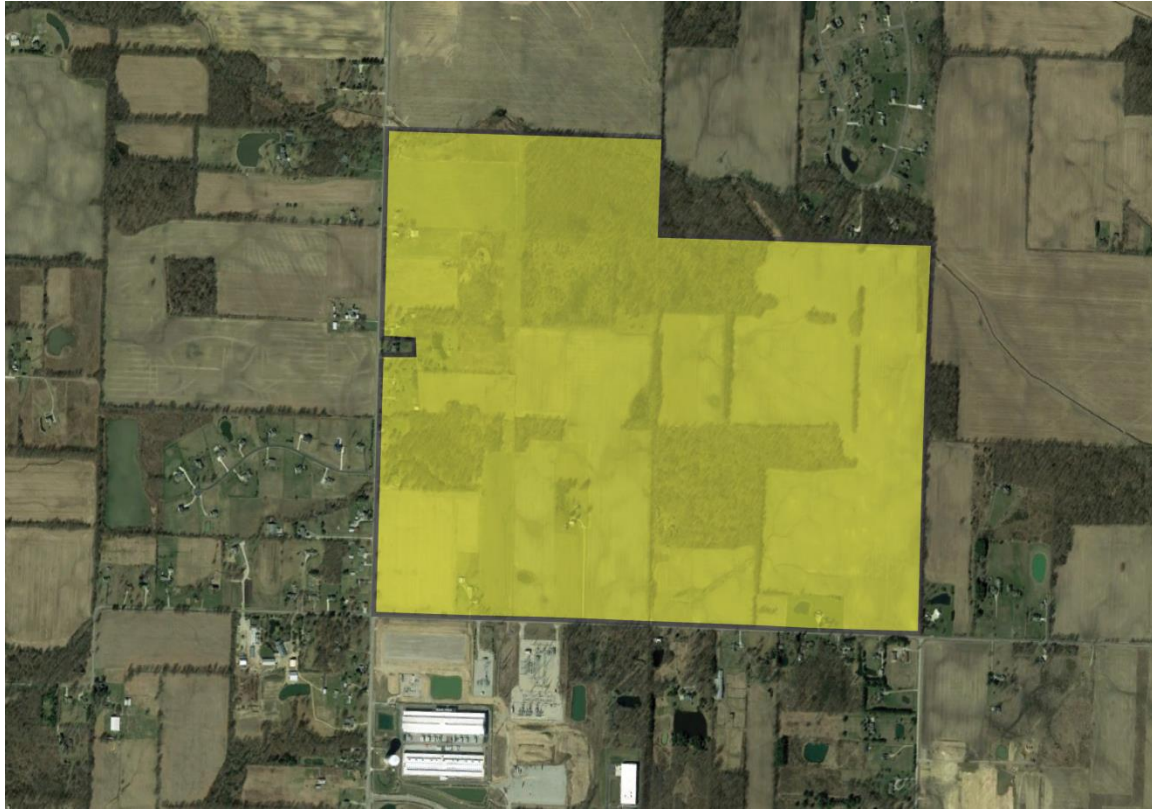
Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

#### **Move to approve application ZC-38-2019 based on the findings in the staff report, with the following conditions:**

1. The creation of an internal pedestrian circulation system be required for research & productions and warehouse & distribution uses in addition to office uses.
2. Any construction of above ground equipment and utilities installed within 800 feet of a perimeter boundary qualify for the phased landscape and screening provision in the text.
3. A comprehensive landscape plan that incorporates mounding, tree preservation, plantings, screening and stormwater ponds will be developed, meeting or exceeding the requirements of the Beech Road South Landscape Plan. The plan will be reviewed and approved by the city landscape architect.
4. There shall be no light spillage permitted on residential properties.

#### ***Approximate Site Location:***





Source: Google Maps



**Planning Commission Staff Report  
May 20, 2019 Meeting**

---

**ENGLEFIELD OIL  
VARIANCES**

---

**LOCATION:** Located at the corner of US-62 and Theisen Drive  
(PID: 222-004730-00)

**APPLICANT:** EMH&T c/o Katie Miller

**REQUEST:** Variance Package

- (A) Variance to section 3e.01(1)(2) to allow the setback from the northern property line to be 10 feet where the zoning text requires a minimum 30 foot setback.
- (B) Variance to section 3e.02(4) to allow 31 parking spaces where the zoning text requires 63 parking spaces based on the area calculations of the building and gas canopy.
- (C) Variance to section 3e.03(6)(a) to allow propane tanks and an ice freezer to be stored outside the permitted structure where the zoning text prohibits storage of products outside the permitted structure.
- (D) Variance to C.O. 1165.10(h) to allow a gasoline service station to be located within 200 feet of any zoning district where residences are permitted.

**ZONING:** Comprehensive Planned Unit Development (C-PUD) Subarea 3E: Route 62 Commercial

**STRATEGIC PLAN:** Village Center Mixed Use

**APPLICATION:** CU-33-2019

Review based on: Application materials received April 12 and May 3, 2019.

*Staff report prepared by Chris Christian, Planner*

---

**II. REQUEST AND BACKGROUND**

The applicant requests variances in conjunction with the final development plan for an Englefield Oil gas station and convenience store located at the corner of US-62 and Theisen Drive.

The variances requested are as follows:

- (A) Variance to section 3e.01(1)(2) to allow the setback from the northern property line to be 10 feet where the zoning text requires a minimum 30 foot setback.
- (B) Variance to section 3e.02(4) to allow 31 parking spaces where the zoning text requires 63 parking spaces based on the area calculations of the building and gas canopy.

- (C) Variance to section 3e.03(6)(a) to allow propane tanks and an ice freezer to be stored outside the permitted structure where the zoning text prohibits storage of products outside the permitted structure.
- (D) Variance to C.O. 1165.10(h) to allow a gasoline service station to be located within 200 feet of any zoning district where residences are permitted.

## **II. SITE DESCRIPTION & USE**

The site is located on the edge of the Village Center, adjacent to the Plain Township Fire Department near State Route 161. It is generally located east of US 62, north of Theisen Drive, and west of Rose Run. The site is undeveloped. The proposed development includes a gas station and an associated 5,275 square foot convenience store.

## **III.EVALUATION**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

### ***Criteria***

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

- 13. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
- 14. Whether the variance is substantial.*
- 15. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
- 16. Whether the variance would adversely affect the delivery of government services.*
- 17. Whether the property owner purchased the property with knowledge of the zoning restriction.*
- 18. Whether the problem can be solved by some manner other than the granting of a variance.*
- 19. Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

- 20. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
- 21. That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
- 22. That the special conditions and circumstances do not result from the action of the applicant.*

23. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
24. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

### **III. RECOMMENDATION**

#### ***Considerations and Basis for Decision***

#### **(A) Variance to section 3e.01(1)(2) to allow the setback from the northern property line to be 10 feet where the zoning text requires a minimum 30 foot setback.**

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

1. The requested variance will reduce the required minimum setback to the northern development site to 10 feet.
2. The applicant states that the setback is sought to be able to accommodate the additional development of a compatible use on the property north of this site.
3. The 10 feet still allows for a landscaping bed to be installed within the setback area which provides both visual and physical separation, and the required internal landscaping requirements.
4. The 2014 New Albany Strategic Plan encourages limited breaks between buildings within the Village Center. The 30 foot setback would create a greater visual and physical distance between the two sites which is not accomplishing the goals of the 2014 New Albany Strategic Plan.
5. The variance does not appear to be substantial. The variance will not impact any existing development, as the site is undeveloped. The applicant is seeking to create a cohesive development with the knowledge that there is a possibility that a compatible use could be developed on the site to the north of their property. The Village Center Plan highlights the need to have uses that support each other within the Village Center. The 2014 New Albany Strategic plan places an emphasis on connectivity which the applicant is attempting to achieve by considering potential future uses north of their site.
6. The variance preserves the "spirit and intent" of the zoning requirement. The proposed variance allows for a more desirable site plan for the property than the existing zoning setback restrictions by creating a continuation of the sites resulting in one cohesive site design.
7. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

#### **(B) Variance to section 3e.02(4) of the zoning text to allow 31 parking spaces where the zoning text requires 63 parking spaces based on the area calculations of the building and gas canopy.**

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

1. The zoning text states that parking shall be provided at a minimum rate of 1 space for every 200 square feet of overall development. Including the area calculations for both the gas canopy and the convenience store, the required parking spaces is 64 spaces.

The applicant is requesting a variance to this requirement to allow 31 spaces be provided.

2. The city parking code requires one space for each two gasoline dispensing units, plus one for each employee during the main shift. There are 8 dispensing units and 4 employees on the main shift which requires 8 spaces be provided.
3. City code does not have specific parking space requirements for convenience stores associated with a gasoline station use. The city parking code states when there is not a space requirement for a given use, the Planning Commission must determine the appropriate amount of parking spaces to be provided.
  - a. The closest use within the city parking code is retail shopping centers which requires one parking space for each 200 square feet of gross floor area. The convenience store is 5,275 square feet which would require 26 spaces.
4. The retail shopping center and canopy uses combined require 35 spaces. The two uses in this case are not mutually exclusive and therefore combining these number of spaces may result in an overabundance of parking space. Therefore 35 spaces appears to be an appropriate amount.
5. The variance does not appear to be substantial. The zoning requirement does not appear to take into account this type of combined development. Based on the canopy and building calculations, the amount of required parking spaces would be 64 which appears to be excessive for the proposed use.
6. The intent of the requirement is to ensure adequate parking spaces. The applicant states the provided 31 spaces is sufficient for this use as it is comparable to similar sized buildings that the owner operates and maintains. It appears that the spirit of the zoning requirement is being met.
7. The 2014 New Albany Strategic Plan and the Village Center Plan both highlight the importance of creating a pedestrian oriented environment within the Village Center. While the surrounding area is auto-oriented, it is an important goal of the city to maintain a balance between the necessity of the automobile and achieving a pedestrian friendly environment. Part of this balance is to ensure that there is not an overabundance of parking where it is unnecessary which is applicable to this site.
8. The variance does not appear to be substantial. The variance will not impact existing development, as the site is generally undeveloped. Additionally, the applicant has provided justification stating that 31 spaces is sufficient for this use as it is comparable to similarly sized building that the owner currently operates and appears to meet the intent of the city parking code regulations.
9. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**(D) Variance to section 3e.03(6)(a) to allow propane tanks and an ice freezer to be stored outside the permitted structure where the zoning text prohibits storage of products outside the permitted structure.**

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

1. The applicant is requesting a variance to allow an ice box and propane storage station on the outside of the building. The zoning text does not allow any products to be stored on the outside of the permitted building.
2. The intent of this requirement is likely to ensure there is not an abundance of “clutter” on the outside of buildings.
3. The variance does not appear to be substantial as the applicant is only proposing to store two products outside the permitted building. The variance will not impact existing development, as the ice box and propane storage station will likely generate very little extra visitors compared to the main function of the Englefield Oil convenience store. Additionally, it will be screened from US-62 with a screening wall on both sides with a roof, using the same hardie board material that is used on the rest of the building. It is likely that the gas pumps will provide additional screening from Theisen Drive.
4. The variance preserves the “spirit and intent” of the zoning requirement since the product area will be appropriately screened from the primary street (US 62) and neighboring properties with screening walls as well as a roof in a way to compliment the rest of the building.
5. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**(E) Variance to C.O. 1165.10(h) to allow a gasoline service station to be located within 200 feet of any zoning district where residences are permitted.**

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

1. The applicant is requesting a variance to allow the gasoline service station to be less than 200 feet from a lot that is zoned to allow residences as a permitted use.
2. The zoning for the lot where the Plain Township Fire Department is located allows residential uses and is approximately 130 +/- feet from the gas station canopy.
3. The variance does not appear to be substantial. The Plain Township Fire Department zoning allows for residential however there is not a residential use on the site. The closest lot with a residential use is in the Windsor subdivision and is greater than 500 feet away from the gas canopy.
4. The “spirit and intent” of the zoning requirement preserved as it is to ensure that there is an adequate separation between this type of use and a residential development. While the Plain Township Fire Department lot allows for residential development, this is not how this site is used today and it does not seem likely that this lot will be redeveloped for a residential use. Adequate separation is provided between the proposed development and lots that have residential uses.
5. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
6. It does not appear that the essential character of the neighborhood would be substantially altered or adjoining properties suffer a substantial detriment. The east side of US-62 is largely undeveloped in this area. Additionally, this portion of the

Village Center serves as a transitional piece between the denser, historic Village Center and the more auto-oriented sections of the city. The proposed use would not alter that existing character.

#### **IV. RECOMMENDATION**

Staff recommends approval of the requested variances should the Planning Commission find that the application has sufficient basis for approval. It appears that the variances are appropriate based on the proposed use of the site as a gas station and convenience store. The smaller setback from the northern property allows the applicant to set up an overall cohesive development which is valued in a master planned community, like New Albany. Another important goal of the city is to maintain the appropriate balance between the necessity of cars and creating a pedestrian friendly environment which is accomplished at this site by ensuring that an excessive amount of parking spaces are not provided. The use is adequately separated from lots where residential uses exist today. The site is in an appropriate location given the context of the surrounding area as a transition between the denser, historic Village Center and the more auto-oriented sections of the city. Additionally, it does not appear that the granting of the variances will adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

#### **V. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

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

**Move to approve application V-35-2019.**

**Approximate Site Location:**



Source: Google Maps





**Planning Commission Staff Report  
May 20, 2019 Meeting**

---

**ENGLEFIELD OIL  
CONDITIONAL USE**

---

LOCATION: Located at the northeast corner of US-62 and Theisen Drive  
(PID: 222-004730-00)  
APPLICANT: EMH&T c/o Katie Miller  
REQUEST: Conditional Use  
ZONING: Comprehensive Planned Unit Development (C-PUD) Subarea 3E: Route  
62 Commercial  
STRATEGIC PLAN: Village Center Mixed Use  
APPLICATION: CU-33-2019

Review based on: Application materials received April 12 and May 3, 2019.

---

*Staff report prepared by Chris Christian, Planner*

**III. REQUEST AND BACKGROUND**

The applicant requests approval of a conditional use for an Englefield Oil gas station at the corner of US-62 and Theisen Drive. The 1998 NACO PUD Subarea 3E: Route 62 Commercial zoning text states that gasoline service stations, or retail convenience stores selling gasoline as an ancillary activity are a conditional use within this subarea based on the permitted and conditional uses of the C-2 General Business (Commercial) District. This request is in conjunction with a final development plan and related variances for an Englefield Oil gas station and convenience store on 3.01 acres.

The zoning text states that gasoline service stations shall conform to the standards set forth in C.O. section 1165.09 (now section 1165.10). The applicant is requesting multiple variances which include one to C.O. 1165.10(h) to allow a gasoline service station to be located within 200 feet of any zoning district where residences are permitted. This variance request is also on tonight's Planning Commission agenda, and is evaluated in the variance staff report.

**IV. SITE DESCRIPTION & USE**

The site is located on the edge of the Village Center, adjacent to the Plain Township Fire Department near State Route 161. It is generally located east of US 62, north of Theisen Drive, and west of Rose Run. The site is undeveloped. The proposed development includes a gas station and an associated 5,275 square foot convenience store.

**V. EVALUATION**

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

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

**Uses:**

- The site is approximately 3.01 acres and will contain a 5,275 square foot convenience store and 8 gas pumps with a fuel canopy. Access to the site is proposed to be from Theisen Drive and US-62 via a new curb cut.
- The gasoline service station will be open 24 hours a day will have 4 employees during the main shift.
- The 2014 New Albany Strategic Plan identifies this area as a Village Center Retail future land use. The gasoline service station appears to be an appropriate use based on the future land use designation and its proximity to the US 62 and State Route 161 interchange.
- It does not appear that the proposed use will alter the character of the surrounding area. This area currently serves as a transition between the dense, Historic Village Center and the more auto-oriented area of the city with close proximity to State Route 161 and the development north of 161.

**Architecture:**

- The design of the convenience store is of good design, achieving the barn vernacular American architectural precedent which is complementary to rural and pastoral character of the surrounding area.
- The overall height of the convenience store is 26 feet and six inches and the fuel canopy is 19 feet and three inches, which meets the 45 foot maximum height allowed by the zoning text.
- The building features four sided architecture to provide visual interest to all sides of the building. The primary convenience store building material will be hardie board and the fuel canopy will be made of metal with brick veneer columns. The convenience store uses a variety of techniques to break up the overall mass of the building and provide visual interest to the façade.
- All of the mechanical equipment is located on the roof of the building and appears to be fully screened from the public right-of-ways.

**Parking:**

- The zoning text states that parking shall be provided at a minimum rate of 1 space for every 200 square feet of overall development. Including the area calculations for both the gas canopy and the convenience store, the required parking spaces is 64 spaces. The applicant is requesting a variance to this requirement to allow 31 spaces to be provided.
  1. The Planning Commission will evaluate this variance as part of their review.

- Per Codified Ordinance 1167.06(a)(3) this commercial building will require 1 loading space. The rear of the building has been designed to serve as the loading area.

**Signage:**

- The applicant's plans shows conceptual signage. However, a sign package has not been submitted. Because this site is within the Village Center, future proposed signage will be reviewed by the Architectural Review Board.

**Landscaping:**

- A landscape plan has been submitted with the final development plan application for this site. The City Landscape Architect's comments can be found in the final development plan staff report.

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

- The entire lot is approximately 3.01 acres.
- This site is located in the Village Center and its immediate neighbors within the site include the Plain Township Fire Department, Marburn Academy and the Windsor subdivision which have larger setbacks on US-62 and contribute to the existing auto-oriented nature of the surrounding area.
- C.O. 1165.10(h) states that gasoline service stations are not permitted within 200 feet of a zoning district where residential development is permitted. The applicant is seeking a variance to this requirement which is evaluated in the variance staff report. There are no existing residential uses within 200 feet of the proposed development. The Plain Township Fire Department property zoning permits residential use which requires a variance. The closest residential lot is approximately 500+ feet away from this property.

*(c) The use will not be hazardous to existing or future neighboring uses.*

- The use does not appear it will be hazardous to the existing or future neighboring uses. It appears that this an appropriate location for a gasoline station.
- The site has been developed to include cross access easements and future shared drive aisles for the property to the north, to allow for a cohesive development in the future.

*(d) The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*

- Sewer and water service are available in this location.
- The applicant is dedicating additional right-of-way and easements on Theisen Drive to ensure there is adequate space for future street improvements.
- There is a planned city project for roadway improvements along US-62. These improvements include extending the leisure trail along this site and under the State

Route 161 overpass as well as adding on-street bike lanes. Both of these improvements will encourage multi-modal transportation.

- The proposed commercial development will produce no new students for the school district.

(e) *The proposed use will not be detrimental to the economic welfare of the community.*

- The proposed use will likely economic welfare in the city due to creation of jobs which generate income taxes.

(f) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

- It does not appear the site will involve operation that will be detrimental to adjacent uses. This area of the city is auto-oriented and is in close proximity to the State Route 161 interchange and the commercial district north of the interchange. US-62 is currently heavily traveled therefore it is reasonable to assume that this development will be frequently visited and serve as an important asset to those in the surrounding area.

(g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*

- The site will be accessed from two entrance drives off of Theisen Drive and a proposed curb cut along US-62.
- The City Engineer has evaluated the site and states that the curb cut on Theisen Drive, closest to US 62 should be revised to a right in, right out only to ensure there is no interference with Traffic on Theisen.
- The City engineer also recommends that the applicant submit a traffic access study that considers traffic flows with and without the US 62 curb cut.
- The building is surrounded by the parking lot and internal drive aisle.
- The site has been designed to be able to accommodate fuel trucks.
- The leisure trail along US-62 will be extended through this site as a part of a city project and the developer will install leisure trail along Theisen Drive.
- The applicant is proposing to install a 45 foot curb cut along US-62 which requires ODOT approval. This proposal is discussed in more detail in the final development plan staff report, in which staff recommends that the width of this curb cut be reduced to 35 feet to maintain a pedestrian oriented environment within this area.

## **VI. RECOMMENDATION**

The overall proposal appears to be generally consistent with the code requirements for conditional uses. The proposed use appears to be appropriate for the site based on the current zoning and the 2014 City of New Albany Strategic Plan. Retail has historically been approached in a thoughtful and planned way that promotes a planned amount of land being dedicated to this use. Due to the close proximity of this site to State Route 161 and this portion of the business park, this is an appropriate use in this location. This application of retail is appropriate and is strategically located to provide auto oriented services/retail uses due to its proximity to the interchange and to serve this end of the business park. While the use appears to be appropriate, there are several variances requested regarding proximity to residences

uses, setbacks, parking requirements and outside storage which may have an impact on how the property is used. Therefore staff recommends a condition of approval that the approval of the final development plan and variances be a condition of approval.

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

## **VII. ACTION**

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

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

### **Move to approve application CU-33-2019 with the following conditions:**

- 1) The conditional use permit will become void if the property should become vacant or a different kind of business occupies this site.
- 2) The Final Development Plan and associated variance applications (FDP-34-2019 and V-35-2019) for Englefield Oil are approved by the Planning Commission.

### **Approximate Site Location:**



Source: Google Maps



**Planning Commission Staff Report  
May 20, 2019 Meeting**

---

**ENGLEFIELD OIL  
FINAL DEVELOPMENT PLAN**

---

LOCATION: Located at the corner of US-62 and Theisen Drive  
(PID: 222-004730-00)  
APPLICANT: EMH&T c/o Katie Miller  
REQUEST: Final Development Plan  
ZONING: Comprehensive Planned Unit Development (C-PUD) Subarea 3E: Route  
62 Commercial  
STRATEGIC PLAN: Village Center Mixed Use  
APPLICATION: FDP-34-2019

Review based on: Application materials received April 12 and April 29, 2019.

*Staff Report completed by Chris Christian, Planner*

---

**VIII. REQUEST AND BACKGROUND**

The application is for a preliminary and final development plan for the proposed Englefield Oil development at the northeast corner of US 62 and Theisen Drive on 3.02 acres. The development includes a gas station and associated convenience store. The site is located within Subarea 3E: US 62 Commercial District of the 1998 NACO C-PUD zoning text.

The zoning text allows Office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, C-2 General Business (Commercial) District, and the conditional uses contained in Section 1147.03, including gasoline service stations or retail convenience store selling gasoline as an ancillary use. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight's meeting under case CU-33-2019.

The applicant is also applying for several variances related to this final development plan under application V-35-2019. Information and evaluation of the variance requests are under a separate staff report.

The city's Architectural Review Board is scheduled to review and make a recommendation to the Planning Commission regarding the final development plan on May 13, 2019.

**IX. SITE DESCRIPTION & USE**

The site is located on the edge of the Village Center, adjacent to the Plain Township Fire Department near State Route 161. It is generally located east of US 62, north of Theisen Drive, and west of Rose Run. The site is undeveloped. The proposed development includes a gas station and an associated 5,275 square foot convenience store.

### III.EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

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

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

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

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*

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

■ **New Albany Strategic Plan**

1. This site is located in the Village Center Retail district of the 2014 New Albany Strategic Plan. The development standards for this type of use include (but are not limited to):
  - a) Mixed-use development and retail should be encouraged in the Village Center.
  - b) Massing, scale and street facades should meet the standard established by the Urban Center Code.
  - c) Pedestrian amenities should be included.
  - d) Village Center retail should be emphasized as the primary retail within the city of New Albany.
  - e) Continued emphasis on connectivity and pedestrian connections should be encouraged.

■ **Use, Site and Layout**

1. Gas stations and retail convenience stores selling gas as an ancillary use are a conditional use. The proposed development is in an appropriate location given its proximity to the State Route 161 interchange and the business park.
2. The development site is approximately 3.01 acres and will contain a 5,275 square foot convenience store, and 8 gas pumps under a fuel canopy. Access to the site will be from two curbs cuts on Theisen Drive and by a proposed cub cut along US-62 which requires ODOT approval before being constructed.
3. The convenience store primary façade fronts onto U.S. 62.
4. The site backs onto Rose Run creek. The applicant is proposing to provide a 12 foot easement along the east side of the creek to accommodate any future leisure trail expansion.
5. The applicant is required to install leisure trail along Theisen Drive. The city will be installing leisure trail along both sides of US-62 as well as bike lanes.



6. The PUD zoning text requires the following setbacks from these perimeter boundaries:
- a. Interstate 161:  
Required—125 foot building and 80 foot pavement  
Proposed— Approximately 325 foot building and approximately 220 foot pavement [requirement met]
  - b. Johnstown Road:  
Required—125 foot building and pavement  
Proposed—Approximately 185 foot building and 125 foot pavement [requirement met]
  - c. Theisen Drive:  
Required—20 foot building and pavement  
Proposed—approximately 60 foot building and 20 foot pavement [requirement met]
  - d. Northern Property:  
Required—30 foot for building and pavement  
Proposed—65 +/- foot building and 10 foot pavement [variance requested]
7. C.O 1165.10 contains additional general development standards for gasoline service stations.

<b>Requirement per C.O. 1165.10</b>	<b>Proposed</b>
(a) Minimum Lot Size. 20,000 square feet	131,506 square feet (3.02 acres)
(b) Minimum Building or Structure Size. 800 square feet	5,275 square feet (convenience store)
(c) Minimum Frontage. 150 feet along a dedicated and improved street	Approx. 322 feet
(d) Location. No gasoline service station shall be located on any lot within 200 feet of any zoning district where residences are permitted.	<u>The Plain Township Fire Department property is 130 +/- feet from the fuel canopy and the zoning permits residential development. A variance has been requested.</u>
(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 40 feet from any right-of-way of any street, and 40 feet from any adjoining property line. Any building located on such premises	Per the setback table above, the fuel canopy is at least 50 feet from all property lines.

shall be located not less than 50 feet from the right-of-way of any street.	
(h)(1) All vending machines, except ice machines and telephone booths, shall be located inside the main building.	<u>The zoning text prohibits all product storage outside the permitted building. A variance has been requested.</u>
(h)(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 25 feet to the street right-of-way line or adjoining property line. All other displays or merchandise outside the main building is prohibited.	Not proposed.
(h)(3) All hydraulic hoists, oil pits, lubricants and greasing, and other repair equipment shall be enclosed completely within the main building.	Not proposed.

8. According to the zoning text, the maximum building height shall not exceed 45 feet. The height of the convenience store building is approximately 26 feet six inches and the height of the canopy gas canopy is 19 feet 3 inches.
9. Storm water retention for the site will be via an underground storage tank.

▪ **Access, Loading, Parking**

- b. The site is proposed to accessed by three new curb cuts.
- c. The zoning text requires a minimum Theisen Drive right-of-way width to be 60 feet. With the dedication of additional right-of-way, the applicant is meeting this requirement with 70+/- feet of right of way.
- d. The curb cut along US 62 is within ODOT's jurisdictional right-of-way due to the site's proximity to the State Route 161 interchange. The final development plan states the curb cut on US 62 is subject to ODOT approval. Since ODOT must review and approve this curb cut's location, staff recommends the curb cut's final design is subject to staff approval in order to address any ODOT conditions. If the curb cut is not approved, the streetscape design must continue throughout the entire lot frontage.
- e. The city's landscape architect and city engineer have both commented the curb cut width on US 62 appears overly wide. The City Engineer has reviewed the design of the US 62 curb cut and recommends the curb cut along US 62 be reduced to 35 feet to match based on the recommendations of the Roadway Location and Design Manual published by ODOT. Staff recommends a condition of approval that the curb cut along US 62 be reduced to 35 feet.
- f. The city also plans to add leisure trail and an on-street bike lanes along this portion of US 62. Reducing the curb cut width narrows the area where bicycles and pedestrian

have to cross/interact with automobile. Narrowing the curb cut also results in more green space along the public street.

- g. The applicant proposes to install two new curb cuts along Theisen Drive that are full access. The city traffic engineer recommends the curb cut on Theisen, closest to US-62, be revised to a right-in, right-out only due to its proximity to the US 62 intersection and left turn lane on Theisen. Therefore staff recommends a condition of approval that the closest curb cut on Theisen Drive to US-62 be converted to a right in, right out only.
- h. The zoning text states that parking shall be provided at a minimum rate of 1 space for every 200 square feet of overall development. Including the area calculations for both the gas canopy and the convenience store, the required parking spaces is 64 spaces. The applicant is requesting a variance to this requirement to allow 31 spaces to be provided.

■ **Architectural Standards**

- 1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design.
- 2. The zoning text contains architectural standards and the site also falls under the Section 3 of the Design Guidelines and Requirements, Village Center Commercial. The zoning text states that building designs shall be derived from traditional American styles including Georgian, Colonial, Federal and Classical Revival and Barn Vernacular interpretations that reinforce a common historic architectural vocabulary.
- 3. The development includes a gas station canopy as well as a 5,275 square foot convenience store located at the edge of the Village Center, close to the US 62-161 Interchange. While this site falls under the designation of the Village Center, this area serves as a transition between the retail/office setting north of State Route 161 and the pedestrian oriented section of the Village Center to the south.
- 4. The applicant states that the traditional American architectural style for this development is barn vernacular which is permitted by the zoning text. The city architect reviewed the application and provided the following comments:
  - a) “The submitted design for the Duchess gas station and convenience store is consistent with the requirements of the city’s Design Guidelines and Requirements. The overall massing is clean and effective, following a rural aesthetic in both proportion and materials. The glass to wall ratio is appropriate for this architectural style and the adornments and color scheme compliment the surrounding environment.”
- 5. The addition of the trellis on the US 62 elevation as well as the rear elevation compliment the architectural tradition and breaks up the massing of the building while achieving a functional purpose of providing an outdoor space for people to gather and screening the rooftop mechanical units for sight and sound.
- 6. The zoning text prohibits the use of poured concrete exterior walls and prefabricated metal buildings. The proposed design does not include either of these elements.
- 7. The zoning text requires that buildings be sited with the longest and/or most predominant building façade, parallel to a major street. This is accomplished at this site as the longest building parcel façade is parallel to US-62.

8. The zoning text requires general roof massing to incorporate pitched roofs, which is being accomplished on the proposed design. The pitched, standing seam metal roof and addition of a cupola contribute to the success of achieving the desired barn vernacular architectural precedent.
9. DGR Section 3(II)(A)(2) states that building designs shall not mix elements from different styles. The proposed convenience store meets this requirement, carrying the barn vernacular precedent on every façade of the building.
10. DGR Section 3(II)(A)(3) states that commercial storefront design shall follow traditional practice, including the use of bulkhead, display windows, and transom windows. Additionally, all visible elevations of a building shall receive similar treatment in style, materials, and design so that no visible side is of a lesser visual character than any other. The proposed development meets this requirement utilizing transom windows on different elevations and creating the appearance of boxed in transom windows that are made to appear as barn doors where true windows are not feasible on the building. The addition of this detail achieves the intent of the barn vernacular design.
11. DGR Section 3(II)(A)(8) states that all buildings shall have operable and active front doors along all public and private roads. This requirement is met for this development as it is proposed to have active and operate front doors on both the US 62 elevation as well as the Theisen Drive elevation.
12. DGR Section 3(II)(B)(2) states that the orientation of main building facades, those with primary entrances, shall be toward the primary street on which the building is located. This requirement is met as the two primary entrances for the convenience store are located on primary streets.
13. DGR Section 3(II)(C)(1) states that significant variance in scale from the traditional American architectural precedent shall be avoided. It appears that the convenience store is appropriately scaled to resemble a traditional barn.
14. Per zoning text section 3e.01(4), the maximum building height shall not exceed 45 feet. The height of the convenience store is approximately 26 feet 6 inches and the height of the gas canopy is 19 feet 3 inches.
15. The zoning text states that brick, wood siding, and approved composition material area acceptable exterior wall finish materials. The primary building material of the convenience store will be white hardie board which is an approved building material per the zoning text.
16. The roof of the gas canopy is proposed to be white metal with brick veneer columns. Staff recommends a condition of approval that the final design and materials for the gas canopy columns be subject to staff approval.
17. The zoning text requires that garbage can and other waste containers shall be kept in storage buildings or within approved screened areas. The applicant proposes to install a dumpster enclosure which meets the requirement of the zoning text. City staff recommends the Planning Commission confirm the color of the dumpster enclosure with the applicant.

▪ ***Parkland, Buffering, Landscaping, Open Space, Screening***

1. Per zoning text requirement 3e.04(4) parking lots shall be screened from public rights-of-way with a minimum 30" high evergreen landscape hedge or wall. The applicant proposes to install a hedge around the parking areas to meet this requirement.

2. Per zoning requirement 3e.04(7)(a) The required amount of interior landscaping area shall be a minimum of eight (8%) of the total area of the parking lot pavement. The total parking area is equal to 1.54 acres. The applicant has provided .14 acres of interior landscape area integrated into the parking lot which is equal to 9% which satisfies the requirement of the zoning text.
3. Per zoning text requirement 3e.04(7)(d) for development areas over 50,000 square feet, a minimum of one tree for every 5,000 square feet of ground coverage and a total tree planting equal to twenty-five inches plus one-half inch in tree trunk size for every 4,000 square feet over 50,000 square feet in ground coverage is required. The developed site area is 76,875 square feet/5,000 meaning that there is a 16 tree requirement for this site. The applicant has provided 16 trees and 48 caliper inches which satisfies this requirement.
4. Codified Ordinance 1171.06(a)(3) requires one canopy tree should be installed for every 10 parking spaces. The applicant is providing 31 parking spaces therefore requiring 4 additional trees. The applicant is meeting this requirement by provided 10 trees within the parking area.
5. The applicant proposes to install the required street trees along US 62 and Theisen Drive.
6. Leisure trail will be installed along US 62 as part of a city infrastructure project. The developer will install leisure trail along Theisen Drive.
7. The existing 4 rail horse fence be relocated to 10 feet outside the right-of-way and the leisure trail along Theisen to be located 8 feet away from the horse fence.
  - a) This will provide greater separation between pedestrians and vehicular traffic.
  - b) This same, general streetscape design is located on US 62 at the Trust Corp site and successfully positions the leisure trail, ground signage, and the horse fence. Staff recommends this same treatment be utilized at this location. Relocating the fence will allow for the desired sequence of streetscape elements.
  - c) Additionally, this redesign will provide more consistency with the Marburn streetscape across the street and have the leisure trail cross at a narrower portion of the curb cut.
8. The city's landscape architects comments are as follows below. Staff recommends a condition of approval requiring the city landscape architect's comments are addressed, subject to staff approval.
  - a) Street trees along Johnstown Road should be in random massings. They should be located between the fence and the edge of pavement of the road. Trees may be installed on both sides of the leisure trail. (To match the existing streetscape character on the north side of Johnstown Road.) Species selected should be New Albany approved large, deciduous shade trees. Select between 3-5 different species for the frontage of Johnstown road.
  - (b) Continue parking and dumpster screening along northeast parking bay with the evergreen shrubs.
  - (c) Add random massings of large, deciduous shade trees to the area between the sanitary easement, back fence, and the edge of pavement. This planting will help screen Rose Run and will serve as a transition between the site development and Rose Run's natural character.

■ *Lighting & Signage*

1. A detailed photometric plan has been submitted that has zero or near zero foot candle intensity along all parcel boundaries with the exception of the north boundary where a shared, connected parking lot is expected when the site develops.
2. The parking lot lighting is proposed to be down cast. The zoning text also requires site lighting to be cut off. Staff recommends a condition of approval that cut off light fixtures be used on the site.
3. The applicant does not propose any signage at this time and intends to return to the Architecture Review Board at a later time for review once the sign package is ready.
4. The site plan currently shows a ground sign along US-62 being located within the right-of-way which is not permitted by city code. Relocating the horse fence will ensure that a variance will not be required. This has been successfully done in the Trust Corp area where similar uses exist. Staff recommends a condition of approval that the proposed sign along US-62 be relocated to be centered between the horse fence and the leisure, out of the right of way.

**G. Other Considerations**

1. Zoning Text Section 8a.03(5)(a) states “no materials, supplies, or equipment or products shall be stored or permitted to remain on any portion of the parcel outside the permitted structure.” The propane tank and ice storage container will require a variance to be heard 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(b)(3) and provided the following comments in addition to the comments already addressed in the staff report:

1. Provide a Traffic Access Study that considers traffic flows with and without the US 62 curb cut.
2. Provide more information regarding the proposed 19' full access easement along the Theisen Drive frontage. Consider dedicating additional R/W if necessary and analyze all proposed signage and landscaping with respect to motorist site distance at the access drives.
3. Provide fire truck and fuel truck turning radius analysis to support placement of pumps, buildings and drive way widths. Coordination with the northern development site should be considered.
4. We will further evaluate storm water management, water and sanitary sewer infrastructure and work within R/W once detailed construction plans become available to ensure that there are no conflicts with the proposed construction plans to signalize US62 at Theisen Drive.

Staff recommends all the City Engineer's comments are complied with and subject to staff approval. The engineering comments can also under separate cover from the consulting City Engineer, E.P. Ferris & Associates.

## V. RECOMMENDATION

Staff recommends approval of the Englefield final development plan provided that the Planning Commission finds the proposal meets sufficient basis for approval. The building and canopy structure on the site are well designed and the proposed development is in an appropriate location given the context of the surrounding area. The barn form of the convenience store and simple canopy design meet the Village Center Strategic Plan's development goal to have aesthetically pleasing designs.

This development appears to be appropriately located based on the character of the surrounding area. The larger setback is generally consistent with Plain Township Fire Department and Marburn Academy building setbacks. Additionally, this portion of the Village Center is more auto oriented due to its proximity to the State Route 161 interchange and provides an appropriate transition between the denser section of the historic Village Center to State Route 161 and the more rural, auto-oriented area of the city.

The 2014 Strategic Plan envisions Theisen Drive connecting to Dublin Granville Road which will provide a greater connection between the Licking County portion of the business park and this area of the city. This development is situated in a location that can serve this portion of the business park as well as current and future residents in the Village Center area.

The Village Center Strategic Plan's goals for development at this location include providing pedestrian friendly environment. As part of a future city infrastructure project, the leisure trail along US-62 will be extended through this site and under the State Route 161 interchange. A bike lane will also be added. Additionally, the access from the first Theisen Drive curb cut needs to be modified to right in, right out only to ensure there is not a conflict with traffic queuing to turn left onto US-62. The suggestions of the city landscape architect and city engineer serve to achieve an appropriate curb cut design along the public streets to ensure a balance between pedestrian and bicycle modes of transportation with this auto-oriented use.

## V. ACTION

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

Move to approve final development plan application **FDP-34-2019**, subject to the following conditions:

1. This approval is contingent on the approval of Variance application V-35-2109 and conditional use application CU-33-2019.
2. The US-62 curb cut final design is subject to staff approval in order to address any ODOT conditions. If the curb cut is not approved, the streetscape design must continue throughout the entire lot frontage.
3. The curb cut along US 62 be reduced to 35 feet.
4. The first curb cut on Theisen Drive be converted to right in, right out only.
5. The final design and materials for the gas canopy columns are subject to staff approval.
6. The existing 4 rail horse fence be relocated to 10 feet outside the right-of-way and the leisure trail along Theisen to be located 8 feet away from the horse fence.
7. The city landscape architect's comments are addressed, subject to staff approval.
8. Cut off light fixtures must be used on the site.

9. The sign along US-62 be relocated to be centered between the horse fence and the leisure, out of the right of way.
10. The City Engineer's comments are addressed, subject to staff approval.

**Approximate Site Location:**



Source: Google Maps





**Planning Commission Staff Report  
May 20, 2019 Meeting**

---

**AG PRO CONDITIONAL USE**

---

LOCATION: 5740 Zarley Street (PID: 222-000277)  
APPLICANT: Kessler Sign Company  
REQUEST: Conditional Use for Retail Product Services and General Office Activities  
ZONING: LI [Limited Industrial District]  
APPLICATION: CU-39-19

Review based on: Application materials received July 30, 2018.

---

*Staff report completed by Jackie Russell, Development Services Coordinator.*

---

**X. REQUEST AND BACKGROUND**

The applicant requests approval to allow Ag Pro to operate a tractor/trailer store at 5740 Zarley Street, which was formerly JD Equipment. This proposed facility will hold equipment that is needed to supply general residents, small and large estates, and commercial service providers for the maintenance of the residential and commercial real estate. In addition to primarily being used for retail sales, the site will also be used to supply repair parts, performing service and repairs, and holding educational classes. Codified Ordinance Chapter 1153.03(b)(1) defines this as a retail product services and office activities. Both uses are conditional uses within the Limited Industrial Zoning District. This proposed business has 50 total employees, with a maximum of ten people per a shift.

The previous tenant of the space, JD Equipment, received approval for a conditional use of retail product services and general office space on May 21, 2012. The Planning Commission placed a condition on the JD Equipment approval stating the conditional use is to become void if the property should become vacant or a different owner/occupant obtained the property. Since there is a different owner/occupant, even though it is same type of use, the conditional use application must be reviewed by the Planning Commission. The property was bought by the new owner in August of 2017. The previous tenant had the same number of employees and the same hours.

**XI. SITE DESCRIPTION & USE**

The site is 2.5 acres and is located in the southern area Zarley Street within the Zarley Industrial Park. The site features an existing building and parking lot. The site is adjacent to the Ralph Fallon Builders site.

The site is zoned LI- Limited Industrial. Permitted uses within LI district include industrial product sales, industrial service, manufacturing and production, warehouse and distribution, research and production, and vehicle service. Conditional uses within the LI district include

general office activities, personal service, and retail product sales and service. Adjacent land uses are generally small scale office and warehouse uses.

## **XII. EVALUATION**

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

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

### **Uses:**

- The proposed use is the same uses approved in August of 2012. The applicant states they will maintain the exact same operations as JD Equipment. The uses are as follows:
  1. Retail Sales and Service.[Retail product sales and service is a conditional use in the LI District]. The applicant has stated that retail sales consist of product displays inside and outside the building, marketing, financing, and product testing and delivery. This site will be used to store inventory. Products sold and stored on the site will include clothing, merchandise, hand tools, hand held equipment, and walk behind, riding, and pulling equipment. The site will be used to repair broken or malfunctioning equipment, reconditioning of used equipment, and the set-up and pre-delivery of new equipment, which includes the cleaning and delivery of equipment sold by the sales department.
  2. Warehousing Repair Parts [warehousing is a permitted use within the LI District]: This site will inventory parts that will support the service department.
  3. Education Center [General Office Activities are an accessory use to Retail Sales and Services within the LI District]. This facility will be a regional central training center for all of the JD Equipment stores. The applicant has indicated that the second floor is used to host trainings.
  4. The applicant has indicated that large agricultural or construction equipment will not be sold on the site, but it may be rarely used as a drop off point for educational use less than five (5) time a year.
- The tenant will have 50 total employees with a maximum of ten per a shift.
- The proposed tenant space is 16,078 square feet.  
The proposed office hours are Monday-Friday: 7:30am-5:00pm; Saturday: 7:30am-Noon and, closed on Sundays.

### **Architecture:**

- The applicant is proposing to utilize the existing building on the site. There are no exterior building or site modifications proposed as part of the use besides the paving of the parking area.
- According to the Franklin County Auditor the building was constructed in 2013 and is 16,078 square feet.

### **Parking:**

- The parking listed below are the existing conditions on site, and there have been no changes:
- The applicant is required to provide 1 space per 250 square feet of gross floor area for the retail portion and 1 space per 400 square feet of gross floor area for the “parts” area of the building. The retail portion requires 30 spaces. (Approximately 7,500 square feet / 250 = 30 spaces).
- The “parts” area requires 22 parking space (8,527 sq. feet / 400 = 21.3175 = 22 spaces). The applicant’s has 58 striped spaces on the site exceeding the minimum parking requirements. The commercial use of the site requires 2 loading spaces. The site plan shows a truck receiving ramp in the service area and a truck parking area which can be utilized for loading and unloading.

**Signage:**

- The applicant has a new proposed sign in for review by the City. All signage must meet the requirements found in Codified Ordinance Section 1169.

**Landscaping:**

- The applicant is not proposing any new landscaping at this time.

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

- The neighboring properties and uses are generally personal services, office and warehouse uses.
- Other approved conditional uses include general office activities, personal service, and retail.
- The space at 5740 Zarley Street has been used as retail product services and general office activities so there will be no change to the essential character of the area.

Use Type	Square feet	% of of Park	Number of Users
Personal Service CU	42,149	25.5%	6
Retail Product Sales CU	29,818	18.0%	3
Office CU	10,747	6.5%	3
Subtotal	82,714	50.0%	12
Religious (Permitted)	1,324	0.8%	1
LI District Permitted Uses	81,225	49.1%	11

The chart above shows that 18% of the park is retail product sales and office is 6.5%. With the approval of this application the amount of retail will remain 18.0% and amount of office will remain 6.5% since it is an already existing use within the park.

(j) *The use will not be hazardous to existing or future neighboring uses.*

- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the LI District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.
- See letter (f) below for more details.

- (k) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- The building is connected to City sewer and water.
  - The proposed commercial development will produce no new students for the school district.
- (l) *The proposed use will not be detrimental to the economic welfare of the community.*
- The proposed use will and has been generating tax income from the jobs for the City.
- (m) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*
- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the LI District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.
  - The applicant has provided a statement indicating there will be no affects on surrounding businesses.
- (n) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
- This site is to have the same use as the previous tenant, so the traffic should be the same or similar as what it is now.
  - The intersection of Zarley Street and U.S. 62 was modified to prohibit left hand turns during certain hours. An EMH&T traffic study, dated April 18, 2012, submitted with the original JD Equipment (CU-02-12) application confirms turning movements must be limited at Zarley Street and U.S. 62. This EMH&T traffic analysis confirms and reinforces the need to alleviate these problems. Turning movements are currently restricted during certain hours.
  - A road connection to Forest Drive was constructed by the city in 2016 to alleviate these problems by providing an additional entrance into the Zarley Industrial Park.

### **XIII. RECOMMENDATION**

The former JD Equipment, now Ag Pro, business has been a successfully operating business in the Zarley Industrial Park since 2013. The city has not received any complaints in regards to the businesses. While the conditional use is for sales and office uses, the nature of the retail sales such as hand tools, hand held equipment, and walk behind, riding, and pulling equipment makes the use fitting for the Zarley Industrial Park. While it is technically retail sales and services, the additional services like tool repair, reconditioning of used equipment, and set-up/pre-delivery of new equipment all have industrial traits and similarities.

The overall proposal appears to be generally consistent with the code requirements for conditional uses. There are currently several other companies with approved conditional uses within the Zarley Industrial Park. The former tenant of 5740 Zarley Street, JD Equipment,

received a conditional use approval for retail product services and general office uses. This application must be reviewed since the condition on the JD Equipment approval stated that the approval would become void if the property should become vacant or a different owner/occupant obtained the property, the property was transferred in August of 2017. The conditional use does not appear to negatively affect the schools, nor will it create any dangerous, injurious, noxious or other objectionable impacts on the land. The proposed applicant will not result in a change of function or use in the tenant space.

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

#### **XIV. ACTION**

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

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

**Move to approve application CU-39-19 to allow retail sales and product services and general office activity uses at 5740 Zarley Street with the following conditions:**

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



Source: Google Maps



**Planning Commission Staff Report  
May 20, 2019 Meeting**

---

**OXFORD SUBDIVISION  
FINAL DEVELOPMENT PLAN MODIFICATION**

---

LOCATION: NACC Section – 29 Oxford Subdivision (PID: 222-004715 and 222-004696)  
APPLICANT: Maletz Architects c/o Andrew Maletz  
REQUEST: Final Development Plan Modification  
ZONING: Infill Planned Unit Development (I-PUD) Parcel 226  
STRATEGIC PLAN: Neighborhood Residential  
APPLICATION: FDM-42-2019

Review based on: Application materials received May 6, 2018

---

*Staff Report completed by Jackie Russell, Development Services Coordinator.*

**XV. REQUEST AND BACKGROUND**

The applicant requests review of a modification to the final development plan for the Oxford Subdivision located which is regulated by the Parcel 226 I-PUD Zoning Text. The modification proposes to modify the orientation requirements of lot #1 and lot #20.

The original final development plan for this subdivision was approved by Planning Commission on June 16<sup>th</sup>, 2014. One of the conditions of approval from the Final Development Plan is, “A note is added to the FDP requiring the houses or architectural features on lots 1 and 20 face each other and share a build-to-line parallel to U.S. 62.”

The applicant is requesting a final development plan modification to not require the homes on lot #1 and lot #20 to face each other. Instead, the applicant proposes to allow the homes to better relate the homes along Oxford Loop North and the other homes within the subdivision.

**XVI. SITE DESCRIPTION & USE**

The subdivision is located north of Morse Road, west of Johnstown Road, south of Temple Beth Shalom, and east of the Rocky Fork Creek in Franklin County. The subdivision has thirty lots, with 14 homes currently built or under construction. The site borders an agricultural parcel and the Rocky Fork Creek to the west and the remainder of the surrounding land is residential.

**III.EVALUATION**

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

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

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

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

- m. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- n. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- o. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- p. *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;*
- q. *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;*
- r. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*



- s. *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;*
- t. *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;*
- u. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- v. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- w. *Provide an environment of stable character compatible with surrounding areas; and*
- x. *Provide for innovations in land development, especially for affordable housing and infill development.*

**A. New Albany Strategic Plan**

The 2014 New Albany Strategic Plan lists the following development standards for the Neighborhood 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. Deciduous street trees should be planted 30 feet on center.
10. Primary roads should be designed according to its designated corridor typology.
11. Sidewalks should be located on all internal subdivision streets and leisure trail located along all external roadway frontages with connections from sidewalks to the leisure trails.
12. Cul-de-sacs are discouraged in all developments and a multiplicity of connections should be made.

**B. Use, Site and Layout**

1. The final development plan modification proposes to modify the orientation of the homes on lot #1 and lot #20 within the Oxford subdivision.
2. The original condition requires that the homes or the architectural features are to face each other and share a build-to-line parallel to U.S. 62. This condition requires the homes to relate to one another, and create a gateway feeling into the community.
3. The applicant is proposing to modify the final development plan so the homes located on lots 20 and 21 relate more appropriately to the other each other, as well as the other

homes within the subdivision, and the curvature of Oxford Loop North rather than just solely to one another.

4. Below is an exhibit which shows what the home orientation would have to be in order to meet the final development plan orientation requirements. The curvature of Oxford Loop North creates a large void and offset between lot 20 and 21, resulting in odd and undesirable spacing.



5. The applicant is proposing to achieve the intended gateway when entering the subdivision by aligning the edge of the home on lot #1 and the edge of the detached garage on lot #20.
6. The proposal preserves the original intent of the Planning Commission's condition by having all three lots: 1, 20, and 21 relate to Oxford Loop North, and creating a gateway into the subdivision through their combined relationship rather than just two lots facing one another.
7. Staff recommends a condition of approval that the detached garage on lot #20 must be built and shall feature a dormer and shutters to provide a level of architectural detail that relates both homes.
8. Additional architectural detailing along the detached garage on lot #20 will better relate the garage to the home of lot #1, so there is equal level of architecture design for the structures that make up the entrance into the subdivision.
9. Additionally, staff recommends a condition of approval that both homes shall share a build-to setback line from U.S. 62 so the homes have uniformity and the same relation to U.S. 62.
10. By modifying the homes locations to create a general setback from U.S. 62 an appropriate consistency is created at the front of the neighborhood, leading to the feeling of an entry into the subdivision.

**C. Access, Loading, Parking**

1. No proposed changes.

**D. Architectural Standards**

1. No proposed changes.

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

1. No proposed changes.

**F. Lighting & Signage**

1. No proposed changes.

**G. Other Considerations**

1. None.

**IV. RECOMMENDATION**

Staff recommends approval should the Planning Commission find that the application has sufficient basis for approval. Staff is supportive of the modification to the building orientation of lot #1 and lot #20. The proposed modifications will still meet the original intent of the final development plan requirement by preserving a sense of entry into the subdivision. A common setback along U.S. 62 will also create uniformity when entering the Oxford subdivision, and contribute to the gateway atmosphere which was desired with the original condition established by the Planning Commission. Additionally, the proposed changes allow for the homes to relate more to the other homes within the subdivision, as well as relating to the curvature of Oxford Loop North.

## V. ACTION

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

Move to approve final development plan modification application **FDM-42-2019** subject to the following conditions:

1. Staff recommends a condition of approval that the detached garage on lot #20 must be built and shall feature a dormer and shutters to provide a level of architectural detail that relates both homes.
2. Both homes on lot 20 and 1 shall share a build-to setback line from U.S. 62 so the homes have uniformity and the same relation to U.S. 62.

Approximate Site Location:



Source: Franklin County Auditor